

BUREAU OF LAND MANAGEMENT UTAH NEPA GUIDEBOOK



**Updated Version
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BLM



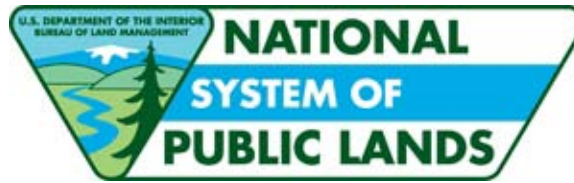
BLM Mission

**To Sustain the Health, Diversity, and Productivity of the Public Lands for
the Use and Enjoyment of Present and Future Generations.**



Bureau of Land Management

Utah State Office



MANAGEMENT PREFACE

The Utah Leadership Team (ULT) believes effective National Environmental Policy Act (NEPA) compliance is fundamental to accomplishing our on-the-ground mission. NEPA compliance assures sound project design, comprehensive analysis of environmental impacts of proposed actions and reasonable alternatives, and thoughtful decision records. It is a key part of the decision-making process that ensures disclosure and consideration of information from the public.

This Utah NEPA Guidebook (Guidebook) provides a consistent and systematic approach to preparing NEPA documents. Appropriate use of the Guidebook will help to ensure that the proposed action and reasonable alternatives are analyzed in an objective and scientific manner. This will result in the identification of the most acceptable course of action. The Guidebook recognizes that NEPA is not an end unto itself, but an analytical tool that assists in the decision-making process. The Guidebook will be continually updated to improve and refine our guidance processes.

The ULT is committed to the NEPA process and is leading this effort. The ULT has organized an Environmental Coordination Group (ECG), comprised of a NEPA Coordinator from each of the Utah BLM offices and a management representative, to prepare and update this Guidebook and to assist with interpretation of NEPA guidance. NEPA is and will continue to be a major part of our daily work, and it is essential that we apply this process to make sound, defensible decisions.

Selma Sierra
BLM Utah State Director

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USER'S GUIDE

“To declare a national policy which will encourage productive and enjoyable harmony between man and his environment....”
(NEPA, ‘Purpose’, Sec. 2)

The National Environmental Policy Act (NEPA) was passed by Congress in 1969 and signed into law by President Nixon on January 1, 1970. It is through this Act that the BLM, as a federal agency, is responsible for preparing documents that analyze the environmental consequences of its actions and assist in determining whether a proposed action would have a significant impact on our environment. Most actions that are proposed on, or would affect, public lands or resources must be reviewed for NEPA compliance. Different levels of documentation that are routinely prepared for this review include a Categorical Exclusion (CX), Determination of NEPA Adequacy (DNA), Environmental Assessment (EA), or an Environmental Impact Statement (EIS).

The intention of this Guidebook is to furnish additional direction for compliance with this law as currently interpreted by the Council on Environmental Quality’s (CEQ) regulations for implementing NEPA (40 CFR Parts 1500-1508), the Departmental Manual regulations (516 DM 1-7), the Bureau’s National Environmental Policy Handbook, H-1790-1 and the decisions of the Federal courts and Department of Interior Office of Hearings and Appeals. This additional direction does not provide detail on the preparation of an EIS, since that is already covered thoroughly in the guidance mentioned above.

This Guidebook does not provide detail on the preparation of an EIS because the CEQ Guidelines at 40 CFR 1500- 1508 fully address preparation of an EIS.

This NEPA Guidebook has been designed to help facilitate the writing, processing, and routing of internally or externally produced EAs and internally produced CXs and DNAs. The direction provided by this Guidebook should help avoid writing encyclopedic EAs and should, instead, encourage a systematic process with a thoughtful, coherent, well organized end product to be used as a decision-making tool. The primary goal of NEPA is to make excellent and informed decisions. In 40 CFR Part 1500.1 (c), the regulations state that “the NEPA process is intended to help public officials make decisions that are based on an understanding of environmental consequences, and take actions that protect, restore and enhance the environment.”

This Guidebook is arranged by chapters in a sequence intended to follow the general considerations and order of the NEPA process. The development of templates that will be used throughout the Utah BLM is an important element of the efforts of the Utah Leadership Team and Environmental Coordination Group (ECG) efforts to foster greater consistency in preparation of agency NEPA documents.

Chapters 1-5 deal with screening and scoping of actions that involve or inform the public, use the interdisciplinary process to identify issues and alternatives. Chapters 6-8 provide specific guidance on the preparation of CX, DNA and environmental assessments.

The Guidebook and Templates also are available electronically in the Utah BLM Planning and NEPA library on the Utah BLM intranet page: <http://www.utso.ut.blm.gov/naturalresources/NEPA/default.htm>

Chapters 9-11 provide instructions on response to public comments, preparation of FONSI and Decision Records and maintenance of the project administrative record. Chapter 12 provides instruction for dealing with emergencies. Chapter 13 explains preparation of EAs by an applicant and third-party contractors. Finally, Chapter 14 provides program specific direction on protest and appeal language to attach to Decision Records. Examples/outlines are included within each respective Chapter.

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ACRONYMS

APA	Administrative Procedures Act
BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CX	Categorical Exclusion
CIA	Cumulative Impact Area
DNA	Determination of NEPA Adequacy
DOI	Department of Interior
DR	Decision Record
EA	Environmental Assessment
ECG	Environmental Coordination Group
EIS	Environmental Impact Statement
ENBB	Environmental Notification Bulletin Board
FBMS	Financial and Business Management System
FLPMA	Federal Land Policy and Management Act
FOIA	Freedom of Information Act
FONSI	Finding of No Significant Impact
HFRA	Hazardous Fuels Restoration Act
IBLA	Interior Board of Land Appeals
IDT	Interdisciplinary Team
IM	Instruction Memorandum
ISA	Instant Study Area
LUP	Land Use Plan
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NOA	Notice of Availability
NOI	Notice of Intent
PDF	Portable Document Format
R&I	Relevant and Important Values
RFA	Reasonably Foreseeable Action
ROD	Record of Decision
OEPC	Office of Environmental Policy and Compliance
OHA	Office of Hearings and Appeals
ULT	Utah Leadership Team

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CHAPTER 1

SCOPING AND SCREENING OF NEPA DOCUMENTS

Scoping is the process that leads to the identification of the issues to be addressed and the range of actions and alternatives to be analyzed in a NEPA document. Screening identifies the appropriate level of NEPA documentation when considering a proposed action and is part of the scoping process. In order to effectively manage the preparation of an environmental document it is essential that screening and scoping take place at the beginning of the process. Screening and scoping help insure:

- All relevant information is considered.
- All problems are identified and studied.
- All relevant agencies and individuals are involved.
- Issues that are of no concern do not consume time and effort.
- The document is balanced, thorough and properly prepared.
- Delays associated with re-doing an inadequate document are avoided.

Screening for NEPA Compliance

All internally or externally proposed actions affecting BLM-administered lands or resources must be reviewed for NEPA compliance. The BLM first determines if the proposal

requires a new decision; **there is no need for NEPA compliance if a federal action is not required.**

If a new decision is required, the initial step in the process is to either reject the proposal for a specific reason or accept it for further consideration. Accepting a proposal requires BLM to screen it and determine the appropriate documentation for NEPA compliance.

The Authorized Officer and interdisciplinary team should answer several threshold questions before initiating NEPA on a new proposed action.

A BLM proposal is a Federal action when: (1) we have a goal and are actively preparing to make a decision on one or more alternative means of accomplishing that goal (40 CFR 1508.23); (2) the proposed action and effects are subject to BLM control and responsibility (40 CFR 1508.18); (3) the action has effects that can be meaningfully evaluated (40 CFR 1508.23); and (4) effects of the proposed action are related to the natural and physical environment, and the relationship of people with that environment (40 CFR 1508.8; 40 CFR 1508.14).

NEPA Threshold Questions

- Is this a Federal Action?
- What authority and mechanism of approval is appropriate?
- Have appropriate and complete applications been received?
- Is the proposal in conformance with the BLM Land Use Plan?
- Is the proposal consistent with other agency plans?
- What is the BLM's purpose and need for considering the proposal?
- Does BLM have the time, funding and personnel to complete NEPA for this proposal?

Rejection of a Proposed Action: A proposed action may be rejected under another statutory or regulatory authority without NEPA review. It must be documented based on program specific requirements and signed by the Authorized Officer. It may be rejected on the basis that it is not within the BLM’s authority to approve, it is not in conformance with the applicable land use plan, or it is judged not to warrant further consideration for specified reasons.

The reasons for rejecting the proposed action should be documented in writing, including relevant site-specific information considered by the Authorized Officer, prior to rejecting the proposal.

Further Review and Consideration: If a proposal is accepted for further consideration, one of five levels or classes of NEPA compliance applies:

(1) Actions Which Are Exempt from NEPA.

There are five categories of actions that are exempt from the requirements of NEPA under Federal Law or Executive Order. These are:

- Emergency situations (See 40 CFR 1506.11 and the instructions on dealing with Emergencies in Chapter 12 this Guidebook for further explanation).
- Explicit exemptions under Federal Law such as exemptions for EPA under the Clean Air and Clean Water Acts or compliance with land exchanges required by statutory law.
- Implicit exemptions under Section 105 of NEPA where the requirement to comply with NEPA is supplementary to requirements set forth by other authorizations of federal agencies.
- Functional Equivalency where the courts have recognized the processes required under other laws as equivalent to those of NEPA (e.g. CERCLA actions page 9 of the NEPA Handbook H-17890-1).
- Executive Office Exemptions where decisions made directly by the president or requirements of executive orders determine that NEPA does not apply (i.e. National Monument Designation).

Exemptions to NEPA rarely apply to BLM’s routine decisions.

(2) Actions Which Are Categorically Excluded.

There are two types of Categorical Exclusions (CX): 1) categories of actions which Federal agencies have determined do not have a significant effect on the quality of the human environment (individually or cumulatively) and for which neither an EA nor EIS is generally required (40 CFR 1508.4), and 2) Oil and gas actions that are statutorily excluded from further NEPA review by Section 390 of the Energy Policy Act of 2005. An action proposed or being considered by the BLM is not categorically excluded unless:

- It is specifically identified in the Department of the Interior Manual in 516 DM 2, Appendix 1 or 516 DM 11.9 and none of the extraordinary circumstances listed in 516 DM 2, Appendix 2 apply, or
- The action fits the categories identified in Section 390 of the Energy Policy Act of 2005.

See Chapter 6, the Categorical Exclusion section of this Guidebook, for use and documentation of CXs. BLM NEPA Handbook (H-1790-1, Chapter 4) provides guidance on application of the Section 390 CXs.

The CXs of another Department of the Interior Agency (DM 516 11.9 J (11)) may be applied when both the BLM and the other agency must make a decision. Interior Agency CXs are identified in Chapters 8-15 of Departmental of Interior Manual 516. These are located online at: http://206.131.241.18/app_dm/index.cfm?fuseaction=home (scroll down to Part 516).

(3) Actions Which Are Covered By Existing NEPA Documents (*Adoption of documents from other agencies and Determination of NEPA Adequacy (DNA)*).

During screening, relevant existing EAs and EISs should be reviewed to determine if the proposed action is already completely analyzed in existing EAs or EISs prepared either by the BLM or another agency. If existing NEPA documents meet CEQ, DOI, and BLM standards and adequately analyze the proposed action, then a decision on the proposed action may be made without further NEPA analysis. The existing NEPA record must be augmented or supplemented when there are substantial changes in the proposed action relevant to environmental concerns, there are significant new circumstances or facts relevant to environmental concerns and bearing on the proposed action, or there are impacts which are not addressed and analyzed in the existing documents (40 CFR 1502.9(c)(1)).

Maintenance actions and continuing operations expressly analyzed in prior NEPA documents or included in CX documentation for approved actions do not trigger the need for further NEPA analysis unless there are significant new circumstances or information relevant to environmental concerns.

Adoption: An EA prepared for a proposal by another agency may be adopted if BLM independently evaluates the document and finds it to comply with CEQ, DOI, and BLM standards. When an EA is essentially but not entirely adequate for BLM purposes, it may be modified to correct deficiencies and released as a BLM EA. The BLM must prepare its own FONSI and DR for adopted EAs, acknowledging the origin of the EA and taking full responsibility for its scope and content (516 DM 3.6). (See Chapter 13 of this Guidebook for guidance regarding use of third party and applicant prepared EAs.).

Determination of NEPA Adequacy (DNA): The BLM may determine that it can properly rely on analysis in existing NEPA documents to make an informed decision, but it must establish an administrative record that documents that it took a “hard look” at whether new circumstances, new information, or environmental impacts not previously anticipated or analyzed warrant new analysis or supplementation of the existing NEPA documents, and whether the impact analysis supports the proposed action. This determination must be documented in a DNA form. See Chapter 7, the DNA section of this Guidebook and 516 DM 11.6, for further information on the preparation and use of a DNA.

(4) Actions which require preparation of an environmental assessment (EA).

An EA is a concise public document that briefly provides sufficient evidence and analysis for the agency to determine if an EIS or a FONSI should be prepared. An EA must be prepared for proposed actions that:

- Are not exempt from NEPA.
- Have not been categorically excluded.
- Have not been covered in existing EISs or EAs.
- Do not normally require an EIS.

(5) Actions which require preparation of an EIS.

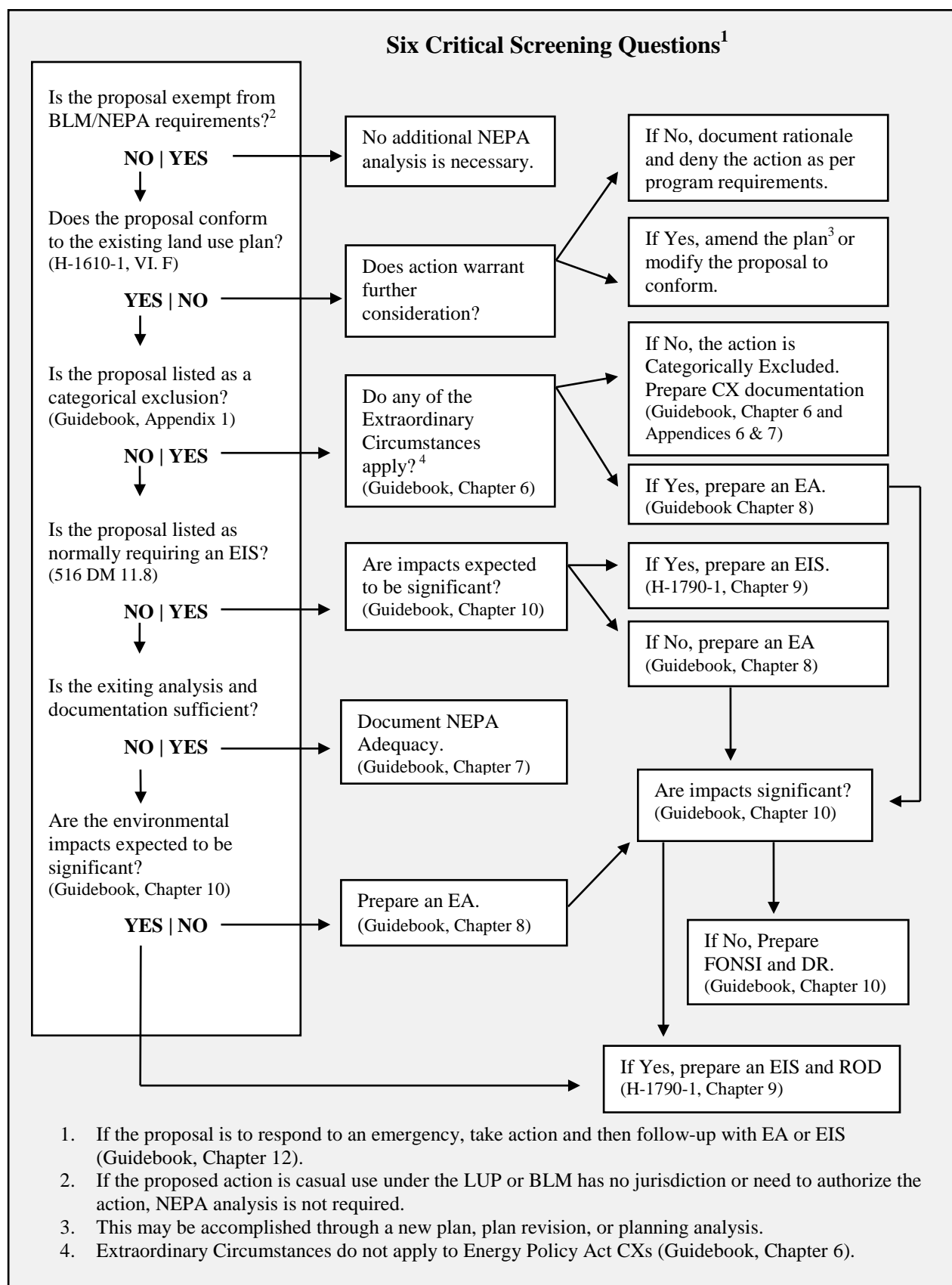
Certain actions have been determined by BLM to be potential major federal actions significantly affecting the quality of the human environment, and therefore normally requiring preparation of an EIS. These actions are specifically listed in 516 DM 11.8. They include large projects such as major pipelines and transmission lines, coal-fired power plants etc. If an EA is prepared for an action that normally requires preparation of an EIS, the FONSI must be circulated to the public for 30 days prior to approving the action (40 CFR 1501.4(e)).

The BLM Screening Process

Figure 1 is a diagram of the BLM Screening Process. Refer to the individual sections contained within this Guidebook for explanation of the use and application of CXs, DNAs and EAs. If it is determined that an EA is required, complete the scoping steps described below before completing the EA.

During the period in which a NEPA review is underway, BLM may consider individual projects that fall within the scope of the ongoing analysis. As per 43 CFR 46.160, During the preparation of a program or plan NEPA document, the Responsible Official may undertake any major Federal action in accordance with 40 CFR 1506.1 when that action is within the scope of, and analyzed in, an existing NEPA document supporting the current plan or program, so long as there is adequate NEPA documentation to support the individual action.

After gathering preliminary scoping information, use the information and the CEQ significance criteria at 40 CFR 1508.27 to make a preliminary finding as to the potential for significant impacts. The significance criteria are also included in the Finding of No Significant Impact (FONSI) template of this Guidebook. If it appears that there is a potential for significant impacts, you must decide whether to complete the EA before making a FONSI or to publish a Notice of Intent (NOI) for preparation of an EIS. In some cases, preparation of an EIS may be faster and easier than completing a complex EA before finding that an EIS is required. If it appears that none of the anticipated impacts are potentially significant, complete the EA and prepare a Finding of No Significant Impact (FONSI) or NOI, as appropriate. An EA may be prepared for a proposal that has been determined to have potential for significant impacts only when the selected alternative mitigates impacts to be “less than significant.”

Figure 1. Define Proposal or Action

Scoping and Scope of an Environmental Assessment

Although scoping is a process associated with EIS preparation, the CEQ guidelines at 1501.4(b) note that an agency “shall involve environmental agencies, applicants, and the public, to the extent practicable”, in preparing EAs. Therefore, the same scoping process and products required for EISs may be applied to EAs, depending on the complexity of the proposed action, alternatives and issues.

A. What Scoping Is and What It Can Do.

Scoping is a process, not an event or a meeting. It continues throughout the analysis and preparation of an EA. Scoping is a public involvement process that actively includes the public, other agencies, and BLM, and results in identification of the proper scope of the EA. Screening is the initial step in the scoping process (see NEPA Screening above) but cannot be concluded until the final steps of the scoping process are completed.

Scoping enables EA preparers to consider the scope of the proposal early on and helps the BLM explain the proposal to the public and affected agencies. Thus, as the EA is prepared it will include the concerns, issues, and alternatives identified by the BLM, cooperating agencies and the public. This reduces the chances of overlooking a potentially significant issue or reasonable alternative and minimizes delays. It also helps ensure the success of EAs during protests, appeals, and litigation.

The objectives of scoping are:

- To identify the affected public and agency concerns.
- To facilitate an efficient preparation process by assembling cooperating agencies, providing interdisciplinary analysis, and assigning EA writing tasks.
- To ascertain all the related permits and reviews that must be scheduled concurrently to avoid duplication of effort.
- To define the issues and alternatives that will be examined in detail in the EA while dismissing unimportant or irrelevant issues and alternatives with a short explanation of why they need not be analyzed further.
- To save time in the overall process by helping ensure the EA adequately addresses relevant issues and reasonable alternatives.

The CEQ regulations at 40 CFR 1501.7 require the following in an agency’s scoping process:

- Invite participation from affected Federal, State, local, and tribal organizations and interested persons.
- Determine the scope or extent of the EIS and the significant issues to be analyzed. Scoping is valuable in identifying connected, cumulative, and similar actions.
- Eliminate those issues raised that are not related to potentially significant impacts or those that have been covered in other environmental documents. Make assignments for preparation of the EIS between the lead and cooperating agencies.
- Identify any environmental documents being prepared that have relevance to, but are not part of, the scope of this EIS.
- Identify other environmental review and consultation requirements.
- Discuss the relationship between the timing of the preparation of the EIS and the agency’s tentative planning and decision-making schedule.

Sometimes the scoping process enables early identification of a few serious problems with a proposal, which can be changed or solved while the proposal is still being developed. In these cases, scoping can lead to the resolution of potential conflicts in the proposed action. By working with the proponent, mitigation measures can be identified that may change the proposed action or lead to the development of alternatives. A proposal that has been determined to have potentially significant impacts requiring the preparation of an EIS can sometimes be adequately mitigated to the extent that an EA and FONSI can be prepared instead.

Scoping is the foundation for the rest of the decision making process. If the EA includes all the necessary information for formulating and making rational choices, the agency will be able to make a sound and prompt decision, supported by a legally defensible administrative record.

Scope within and outside the BLM. Allow at least 15 days between notices and meetings. 455 DM 1 states that a notice of a hearing should ordinarily be published in the Federal Register at least 30 days prior to the date of the hearing.

B. Steps of the Scoping Process.

1. Start Scoping After You Have Enough Information.

Scoping is not useful until the agency knows enough about the proposed action to identify the underlying need and purposes for the proposal, to identify most of the affected parties, and to present a coherent proposal and a suggested list of environmental issues and alternatives. Until that time, there is no way to adequately explain to the public or other agencies the proposed action and its potential impacts. Therefore, the first stage is to gather sufficient information from the applicant, or compose a detailed description of the proposal so it can be adequately analyzed and evaluated for its potential environmental consequences.

2. Prepare Necessary Public Information and Post Project on the Environmental Notification Bulletin Board.

An information packet can help interested publics understand what is being proposed and provide for consistent interdisciplinary analysis by the ID team. This packet might include a description of the proposal, a fact sheet on project components along with a list of potential issues, alternatives, maps, and photos. Chapter 3 of this Guidebook provides instructions on posting of notices on the Environmental Notification Bulletin Board (ENBB).

3. Design the Scoping Process for Each Project.

There is no established or required procedure for scoping. The process can be carried out by meetings, telephone conversations, written comments, or a combination of all three. It is important to tailor the type, the timing, and the location of public and agency comment opportunities to the proposal. Consider direct mailings to affected and known interested parties, news releases, workshops, and open houses as potential methods to involve the public and agencies. No official scoping periods are required for EAs but may be conducted based on the complexity of the issues and the level of public interest in a proposal. For simple or less complex projects, posting on the ENBB may be sufficient.

4. Use the Scoping Comments.

Comments from other agencies, agency stakeholders, the interested public, and BLM staff must be evaluated. Findings must be made as to which issues and alternatives must be analyzed in detail in the EA and which ones can be dismissed with a brief rationale. Scoping will identify what the interested participants and BLM specialists consider to be the principal areas for study and analysis. Every issue that is raised during scoping should be documented and considered in the EA, the administrative record, or both (H-1790-1, Section 6.4).

During scoping, BLM will receive many types of input from internal staff, the public and other agencies. Input can be categorized into three basic types of comments of varying degrees of relevance to the subsequent analysis and decision. Place all of the comments into the following categories and incorporate them into the documentation as follows:

a. Comments Suggesting Alternatives and Mitigating Measures. Comments suggesting goals, objectives, alternatives, or ways to accomplish the proposal are included in this category. These comments must be considered and/or analyzed in the NEPA document in the descriptions of alternatives (including those not analyzed in detail) the “Affected Environment” and “Environmental Consequences.”

b. Comments Identifying Issues to Be Analyzed. For the purpose of BLM NEPA analysis, an “issue” is a point of disagreement, debate, or dispute with a proposed action based on some anticipated environmental effect (H-1790-1, Section 6.4) or if analysis of a point is necessary for making an informed decision. An issue is more than just a position statement, such as disagreement with grazing on public lands. An issue:

- has a cause and effect relationship with the proposed action or alternatives;
- is within the scope of the analysis;
- has not been decided by law, regulation, or previous decision; and
- is amenable to scientific analysis rather than conjecture.

Issues point to environmental effects; as such, issues can help shape the proposal and alternatives. The proposed action is not developed through scoping when a proposal is externally generated. However, other action alternatives to that external proposal are generated during scoping. When identifying issues to be analyzed, it is helpful to ask, “Is there disagreement about the best way to use a resource, or resolve unwanted resource condition, or potentially significant effects of a proposed action or alternative? If the answer is “yes,” you may benefit from subjecting the issues to an analysis.

Entire resources cannot be issues by themselves, but concerns over how a resource may be affected by the proposal can be issues. It is useful to phrase issues in the form of questions, as this can help maintain the focus of the analysis, which would need to answer the questions. Instead of asking: How would wildlife be affected? Ask: How would mule deer populations in Herd Unit 2D be affected?

Analyze issues raised through scoping if the analysis of the issue is necessary to make a reasoned choice between alternatives; relates to purpose and need; or is necessary to determine the significance of impacts.

The “Affected Environment” describes the existing condition of the environment relevant to the issues analyzed in detail and the “Environmental Impacts” section analyzes changes in those conditions. Those potential issues found **through scoping not to be an issue are dismissed** from further analysis with rationale explained in the Interdisciplinary Team Checklist (Chapter 5 in this Guidebook).

Certain elements of the human environment are subject to requirements specified in statutes, regulations, or executive orders (Appendix 1 of H-1790-1). Impacts on these elements are **generally** an issue, and a finding as to potential impacts should be made in all EAs. See the Interdisciplinary Team Checklist in Chapter 5 of this Guidebook for further information on documentation of findings regarding these elements and elements of the environment that were dismissed from further review.

c. Comments Expressing Concerns, Opinions, or Positions. Concerns over compliance with law, regulations, or processes and procedures are accounted for in the “Purpose and Need”. For example, the need for an action such as an APD will include compliance with the Mineral Leasing Act, “Descriptions of the Alternatives,” and “Relationships to Other Plans, Policies and Programs.”

Comments and questions regarding procedures (i.e. NEPA procedures, implementation procedures), reliability of the company, risks, feasibility, bonding, agency ability etc., are noted and counted in the consultation/coordination chapter of the EA. The Decision Record (DR) addresses how the decision maker accounts for all of this information in the “Rationale for Selection of an Alternative.”

5. Determining the Scope of an EA

In identifying the proper scope of an EA, an agency must consider the range of **actions, alternatives, and impacts** to address (40 CFR 1508.25). The agency also must identify the level of the decision to be made (policy, plan, programmatic, or project level decisions) as the scope of an EA may depend on the relationship of the decision to other decisions made through existing NEPA documents (tiered decision making and documents). If the decision to be made does not alter related existing decisions associated with previously prepared environmental documents, the decision may be tiered to the prior decisions and the analysis in the previous documents incorporated by reference. For example, if an area is allocated for livestock grazing in an RMP/EIS, and the EIS analyzed the “No Grazing” alternative, an EA for permit renewal is tiered to the RMP decision and need not analyze the “No Grazing” alternative because the decision to graze or not graze has already been made (40 CFR 1502.20 and 1508.28). The actions and alternatives considered in the EA then deal with the manner, degree, timing etc., of grazing. However, if issues and impacts identified through site-specific analysis were not analyzed in the RMP/EIS and can be resolved only through an allotment specific No Grazing alternative, that alternative should be analyzed.

To determine the proper scope of an EA, four types of actions, three types of alternatives, and three types of impacts may apply. Together the type of actions, alternatives, and impacts delimit the scope of the analysis. They include:

a. Actions: First identify which categories of actions apply to the proposal.

1) Unconnected Single Actions are simple actions comprised of only few components or phases that do not pre-approve or relate to other actions or activities. For example, replacement of a cattle-guard where the action is not part of a grazing permit renewal, right-of-way modification or other action is an unconnected single action.

2) Connected Actions are closely related and therefore should be discussed in the same EA. Actions are connected if they:

- Automatically trigger other actions which may require environmental analysis.
- Cannot or will not proceed unless other actions are taken previously or simultaneously.
- Are interdependent parts of a larger action and depend on the larger action for their justification.

Connected actions are limited to actions that are currently proposed (ripe for decision). Actions that are not yet proposed are not connected actions, but may need to be analyzed as cumulative actions in the cumulative effects analysis if they are reasonably foreseeable.

Any private actions that are federalized for purposes of NEPA through a key federal decision must be considered as connected actions and included within the scope of the EA. A “federalized” project is one for which the agency has discretion to authorize or permit the action, or proposes to contribute substantial funds, equipment or staff to implement.

The degree of federal involvement must be considered. A solicitor’s opinion should be requested if the situation is complex or unclear. Where projects cannot be completed without Federal approval, and the Federal approval is discretionary, the approval is a “key federal decision”.

Care should be taken to ensure that reasonably foreseeable connected actions have been identified and not improperly segmented from the analysis.

For example, if the drilling of a well is proposed on private land, the applicant has applied to BLM for a road right-of-way, and there are no alternative road alignments that would not involve public lands, both the well and road are considered as part of the proposed action and must be analyzed in the EA. However, if the well can be accessed by routes that do not require federal approval, only alternatives for the road alignment must be analyzed in detail because the well could be drilled with or without federal approval of the right-of-way.

However, if the drilling of a well is proposed on State rather than private land, the applicant has applied to BLM for a road right-of-way, and there are no alternative road alignments that would not involve public lands, the proposed action properly includes only the road right-of-way because BLM’s discretion over the Federal portion of the project is limited as a matter of law. According to findings of the Utah District Court in *Utah v. Andrus*, 486 F. Supp. 995, 1979, BLM **must** grant access to the State that allows for the full economic development of the State land. In this scenario, the proposed right-of-way and reasonable alternatives for access are to be described and analyzed in detail, while the proposed well should be identified

as a reasonably foreseeable cumulative action that is analyzed in lesser detail for cumulative impacts with the proposed and alternative actions. See the discussion of cumulative actions in section a.3 for further explanation of cumulative actions.

If, because of functional or economic dependence, proceeding with one project will foreclose options or irretrievably commit resources to future projects, the environmental impacts of the projects should be evaluated together.

The steps of the oil and gas program provide an example of connected similar and cumulative actions. When an oil and gas parcel is leased with standard or special stipulations, the lessee's right to drill at some location on the lease is granted. Therefore, analysis of the impacts of leasing in general should be analyzed. However, leasing is a plan-level decision, and the site-specific impacts of drilling at a specific location on the lease cannot be analyzed in detail.

Seismic exploration helps companies determine whether future drilling is feasible. The underlying need for seismic activities is independent of drilling and the activity is useful with or without drilling. Additionally, approval of the seismic activity does not approve drilling or other oil and gas activity. Further NEPA analysis and approvals are required for drilling. Therefore, for purposes of NEPA, seismic exploration is not connected to drilling unless included by the applicant in a field development proposal.

When approving an Application for Permit to Drill (APD), it is understood that if the well is successful, production from the well may proceed without additional analysis or approvals. Therefore, production of a well is connected to approval of the APD, and the EA for the APD should analyze the production activities as connected actions. This includes trucking, pipelines, water disposal, flaring, access roads etc.

Actions that have independent utility do not necessarily have to be addressed as part of the proposal in the same EA. For example, drilling of an exploration well does not automatically approve field development. One purpose of an exploration well is to determine if additional drilling or field development is feasible. Therefore, exploration drilling has independent utility and for purposes of NEPA is not connected to field development. However, if drilling is proposed in an area where field development has been established in the same formation and several APDs are filed for the area, an EA or EIS should be prepared to assess all of the proposed wells as connected actions that are part a reasonably foreseeable field development scenario. *Drilling to deeper, previously untested formations would still be exploratory in nature.*

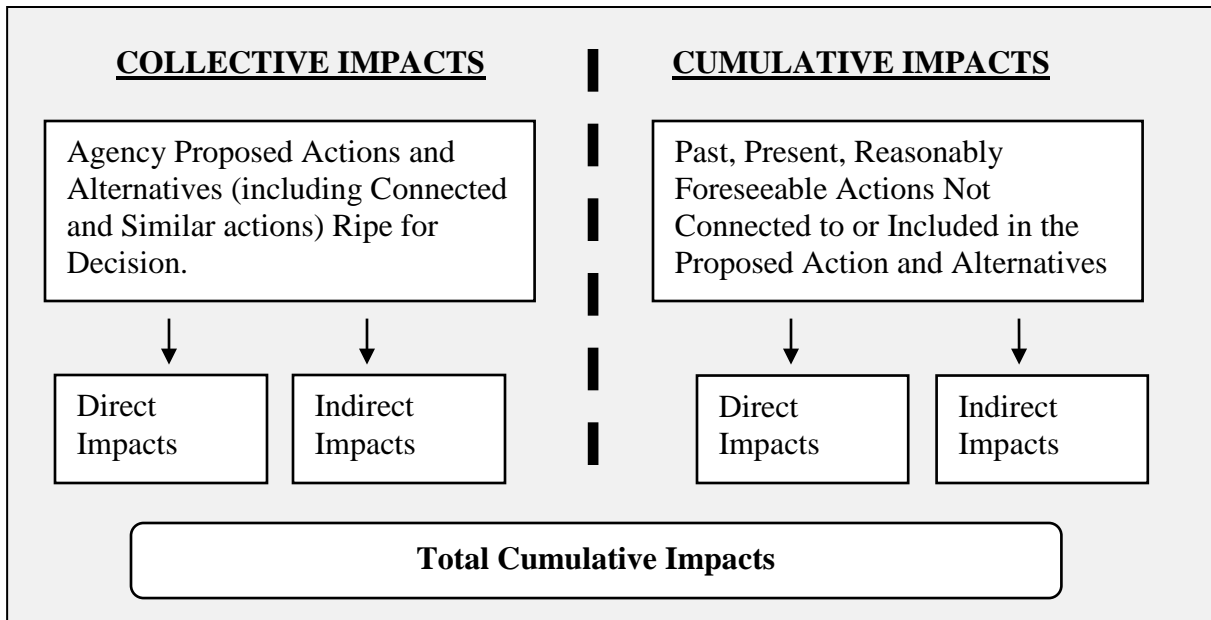
3) Cumulative Actions, when viewed with other actions, may collectively impact the same components of the environment as the proposed action.

The courts make a distinction between the requirement to analyze cumulative actions and the requirement for an analysis of cumulative impacts (*Fritiofson v. Alexander*, 5th Circuit, 10/7/1985). All connected actions that are ready for decision must be incorporated into the proposed action. Regardless of who is taking the action, any other actions which may affect the same components of the environment as the proposed action should be identified in a "Reasonably Foreseeable Action Scenario" (RFA) that is used for "Analysis of Cumulative Impacts."

Functionally, there are two levels of cumulative impacts (Figure 2):

- **Collective Impacts of All Components of the Proposed Action:** All of the connected actions included in the proposal that is ripe for decision must be analyzed in detail for their overall impact on the environment. For example, if a fence, road, and borrow pit are part of a proposal, the cumulative impact of all of these connected actions must be analyzed. This is the cumulative impact of the proposal, and this level of cumulative impacts can be distinguished from the second level of cumulative impacts by thinking of them as “collective” impacts.
- **Cumulative Impact of All Cumulative Actions:** Unlike the obligation to include connected cumulative actions with “collective impacts” in an EA for detailed analysis and decision, the obligation to address cumulative impacts is not limited to actual proposals but all past, present and reasonably foreseeable actions. Reasonably foreseeable actions are not speculative and not off in the distant future. Refer to 40 CFR 1508.7, Handbook 6.8.3.4 and 43 CFR Part 46.30 (2).

Figure 2. Considering Cumulative Impacts



For example, if construction of a trail, expansion of campground, drilling of a well, and a subdivision on private land are proposed in the same area and would affect the same resources, the connected actions must be identified and distinguished from the cumulative actions. Connected actions are incorporated into the proposed action and analyzed in detail, while the cumulative actions are identified in an RFA and analyzed for cumulative impacts. Of necessity, the analysis of cumulative actions that are not part of the proposal may be more general than the detailed analysis of the proposed action.

The underlying need for proposals must be known in order to distinguish between connected and cumulative actions. In the example provided, if the need for the trail is to provide additional access for the campground expansion, the campground and trail are connected and should be part of the proposed action. They must be analyzed in detail in the EA and either approved or denied in the DR. Drilling of an oil and gas well and development of a subdivision are not dependent on construction of the trail, or expansion of the campground, or each other. In this case, the EA prepared for the trail and campground are not the basis of the decision for the well or subdivision. They are therefore cumulative actions that affect the same resources as the proposed trail and campground and can be included in an RFA and analyzed in less detail.

4) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental impacts together, such as common timing or geography. An agency may wish to analyze these actions in the same document. It should do so when the best way to adequately assess the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single document.

Taking the example given above, if the drilling and subdivision development proposals are fully described and are ripe for decision, they can be considered as similar actions, with timing and geography in common with the proposed campground and trail, and may be analyzed in detail in the same EA. They should be included in the Description of the Alternatives as separate but related projects.

Foreseeable groups of similar proposed actions, such as multiple range improvements, wildlife catchments, etc., should be analyzed in “programmatic” EAs to eliminate the need for redundant separate EAs. Additional site-specific analysis may be required for each proposed action tiered to the programmatic EA, depending on the level of specificity of the analysis in the programmatic.

b. Alternatives, which include:

1) Proposed Action. The “Proposed Action” is the action formally proposed by the applicant or the agency. There are two types of proposed actions: applicant and agency. Applicant proposed actions are for use of the public lands in a way allowed by law, regulation, or the land use plan in order to fill an applicant’s need. Agency proposed actions are those that the agency itself initiates. For this reason, all mitigation must be incorporated into the proposed agency action.

All applicant-proposed actions must be federalized through an agency proposal to consider and possibly approve the applicant’s project. An applicant proposal must be “federalized” in the Purpose and Need section of the EA by explaining the objectives and purposes of the agency in considering approval of the applicant’s proposal. The BLM cannot change the applicant proposed action to include mitigating measures unless the applicant gives written consent. However, the BLM can develop and analyze mitigative alternatives that meet both the applicants need and the agencies objectives.

No Action Alternative. Because analysis of the “No Action Alternative” provides the baseline for comparison of the impacts of the proposed action, it must be addressed in all EAs. Where appropriate, it should be analyzed in *detail*. As described in 43 CFR 46.310 b, there are two distinct interpretations of “No Action” that must be considered.

- When agency programs that were initiated under existing law, regulations, and land use plans will continue, no action is “no change” from current management direction or level of management intensity. Therefore, the “no action” alternative is continuing with the present course of action until that action is changed (example Grazing Permit Renewal).
- The second interpretation of “no action” involves federal decisions on applicant proposals. In these cases, “no action” means not approving the proposal.

2) Other reasonable courses of action including mitigation measures not in the proposed action. Section 102 (E) of NEPA requires agencies to study, develop, and describe alternatives so they can recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. Therefore, if environmental impacts would occur with implementation of the proposed action, then other action alternatives must be investigated to mitigate (avoid, minimize, compensate, rectify, reduce or eliminate) impacts while meeting the underlying need for the proposal.

The courts and CEQ have developed some rules of thumb for scoping of “reasonable” alternatives. As viewed by the CEQ an alternative is considered reasonable if it is deemed to be “practical or feasible” from a “technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.”

- The range of analyzed alternatives must provide a decision-maker and the public with a fair and representative cross section of potential courses of action.
- All alternatives except “No Action” must meet the underlying need for the proposal.
- Reasonable alternatives must be considered and, if appropriate, analyzed, even though they may lie outside the legal jurisdiction of the agency.
- Reasonable alternatives must be both technically feasible and technically implementable.
- All reasonable alternatives must be considered, even those beyond the capability (or interest) of the applicant to carry out.
- Alternatives that were determined to be unreasonable and therefore eliminated from detailed analysis must be briefly explained.
- Alternatives should not be eliminated from analysis solely on the basis of economics.
- All alternatives analyzed in detail must be described comparably.

You may eliminate an action alternative from detailed analysis if:

- It is ineffective (it would not respond to the purpose and need).
- It is technically or economically infeasible (consider whether implementation of the alternative is likely given past and current practice and technology; this does not require cost-benefit analysis or speculation about an applicant’s costs and profits).
- It is inconsistent with the basic policy objectives for the management of the area (such as, not in conformance with the LUP).
- Its implementation is remote or speculative.

- It is substantially similar in design to an alternative that is analyzed.
- It would have substantially similar or greater effects than an alternative that is analyzed.

The range of alternatives explores alternative means of meeting the purpose and need for the action. The purpose and need statement helps define the range of alternatives. The broader the purpose and need statement, the broader the range of alternatives that must be analyzed. You must analyze those alternatives necessary to permit a reasoned choice (40 CFR 1502.14). For some proposals there may exist a very large or even an infinite number of possible reasonable alternatives. When there are potentially a very large number of alternatives, you must analyze only a reasonable number to cover the full spectrum of alternatives (CEQ, *Forty Most Asked Questions Concerning CEQ's NEPA Regulations*, March 23, 1981, Question 1b). When working with cooperating agencies, your range of alternatives may need to reflect the decision space and authority of other agencies, if decisions are being made by more than one agency.

The Healthy Forests Restoration Act of 2003 (HFRA) (P.L. 108-148) contains provisions for expedited environmental analysis of projects implemented under its authority. For authorized projects (HFRA Section 102 to determine which projects are authorized), HFRA allows fewer alternatives to be analyzed compared with that which CEQ regulations prescribe. Additional information on HFRA can be obtained from the Healthy Forests Initiative and Healthy Forests Restoration Act Interim Field Guide, February 2004 and page 51 of H-1790-1.

3) **Impacts** may be:

- a) **Direct** which are those caused by the action and occur at the same time and place (40 CFR 1508.8(a)).
- b) **Indirect** which are those caused by the action that occur later in time or farther removed in distance, but are still reasonably foreseeable. Indirect impacts may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density, growth rate, and related effects on air and water and other natural systems (including ecosystems) (40 CFR 1508.8(b)).
- c) **Cumulative** which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7). A cumulative impact analysis must identify:
 - Other past, present, and reasonably foreseeable actions that have or are expected to impact the same components of the environment as the proposed action (must be described in an RFA).
 - Those components of the environment that would be cumulatively affected.
 - The cumulative impact area: the area in which the cumulative effects of the proposed project will be felt (may differ by resource).
 - The additive impacts that are expected in that area from the proposed project.

The cumulative impact analysis should begin early in the project development, usually during the scoping process. As the process continues, use the information to further refine the cumulative impact analysis. The following seven steps serve as guidelines for identifying and assessing cumulative impacts:

1. Identify direct and the indirect impacts to resources that may contribute to a cumulative impact,
2. Identify other past, present, and reasonably foreseeable actions that may affect the resources that would be directly or indirectly affected,
3. Identify the cumulative impact area,
4. Describe the current condition and historical context for each resource, assess potential cumulative impacts to each resource,
5. Describe the reasonably foreseeable actions, cumulative impact area and impacts in Chapter 4 under the Cumulative Impacts heading,
6. Assess and discuss potential mitigation measures for all adverse impacts.
7. Describe the unavoidable cumulative impacts.

The EA and/or administrative record must address all potential impacts including both beneficial and detrimental impacts, even if on balance the agency believes that the impact will be beneficial. Do not label an impact as adverse or beneficial without a full explanation, as an impact may be considered beneficial by some but adverse by others. Significance is determined through preparation of the FONSI; therefore the word “significant” should not be used in the EA.

CHAPTER 2

PUBLIC INVOLVEMENT

The National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and the Administrative Procedure Act (APA) all require that agencies encourage and facilitate public involvement in decision making. The Utah BLM is therefore committed to maximizing opportunities for meaningful public involvement as we prepare to make our decisions.

In order to facilitate public awareness and opportunities for involvement, the Utah BLM State and field office websites include a searchable Environmental Notification Bulletin Board (ENBB) that lists proposals being considered. Refer to Chapter 3 of this Guidebook for instructions on listing projects on the ENBB. It is of utmost importance that this system is a reliable source of information for the public and that all actions, including project status updates, are entered into the system in a timely manner. All public meetings regarding proposed actions must be entered into the ENBB, allowing for at least 15 days public notification prior to the meeting.

As per 40 CFR 1506.6 (c), public hearings or public meetings may be held whenever appropriate or in accordance with statutory requirements. Criteria shall include whether there is: (1) Substantial environmental controversy concerning the proposed action, alternatives, or substantial interest in holding the hearing; or 2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful.

You may determine that it is efficient to combine public meetings for the NEPA with hearings required by another law (an example is requirements in the Alaska National Interest Lands Conservation Act that require hearings if certain findings are made regarding the effects of a proposed action on subsistence). There are more stringent requirements for conducting the hearing and recording the proceedings. You must maintain records of public meetings and hearings including a list of attendees (as well as addresses of attendees desiring to be added to the mailing list) and notes or minutes of the proceedings. Consult 455 DM 1 for procedural requirements related to public hearings. Check individual program guidance to determine requirements for public meetings and hearings.

Based on the need to foster public awareness and input, all proposed actions should be listed on the ENBB regardless of the level of NEPA documentation required. This includes all EISs, EAs, DNAs, and those CXs that require documentation (see Chapter 6 of this Guidebook for a discussion of CX documentation). This includes all actions that are under BLM jurisdiction and which BLM is a cooperating agency. Notification of decisions must be placed on the ENBB on the day the decision is signed, as this initiates opportunities for formal protests or appeals under specific program guidance and/or 43 CFR Part 4. Formal protest and appeal opportunities may exist, regardless of the level of NEPA documentation required for a proposal. If you have specific questions regarding protest or appeal procedures, contact program leaders at the Field or State Office.

Even though the ENBB is useful, it should not be the only tool used for public involvement. Authorized Officers must assure that affected public, including State and local government and Indian tribes are aware of review periods. It is imperative to continue to maintain comprehensive lists of affected interests at the field offices so they can be provided specific notice of BLM's planning and NEPA activities. It is important to inform individuals and organizations that may be affected by or concerned about proposed actions or that have specifically requested notification through news releases, newsletters, direct mailing, e-mail or other methods of communications. However, to reduce workload, all those who request direct notification should be advised of the ENBB as a tool to determine if it will meet their needs without direct mailing of information.

Scoping meetings, comment periods, and Federal Register Notices are not required for EAs but may be required by a program (e.g. Notice of Intent to Plan H-1601-1). The Authorized Officer should involve the public to the fullest extent possible. The manager has some discretion to determine the appropriate level of public involvement based on complexity of the proposal, the potential issues and the level of public interest (40 CFR 1500.2 (d) and 1506.6 and 43 CFR 46.305). In most cases actions considered in EAs have been subject in at least a general manner to previous NEPA review and decision making, usually in a Resource Management Plan (RMP) EIS or programmatic EA. Alternatives for management of the public lands are subject to extensive public review during the development of the RMP or programmatic supplemental analysis.

Chapter 13 and Appendix 11 of the H-1790-1 provide specific direction on the preparation of a Federal Register notice.

The Authorized Officer must determine if the Finding of No Significant Impact (FONSI) and EA should be made available for public review before making a final determination on the action. The primary purpose of a public review is to allow the public an opportunity to comment on the agency's determination that there would be no significant impacts associated with the proposal, and that an EIS is not necessary. The CEQ at 40 CFR 1501.4(e) directs that in certain limited circumstances the agency shall make the Finding of No Significant Impact (FONSI) available for public review, including State and area wide clearinghouses, for 30 days before the agency makes its final determination whether to prepare an Environmental Impact Statement and before the action may begin. The circumstances are:

1. The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to 40 CFR Sec. 1507.3, (See 516 DM 11.8); or
2. The nature of the proposed action is one without precedent.

You must also allow a period of public review of the FONSI if the proposed action includes construction in a wetland or would be located in a floodplain. (Question 37b, CEQ, *Forty Most Asked Questions Concerning CEQ's NEPA Regulations*, March 23, 1981, citing E.O. 11990, sec. 2(b) and E.O. 11988, sec. 2(a)(4)).

A comment period must be allowed for EAs on actions that meet these conditions. In addition, there are other situations when the EA must be made available for public comment due to program specific requirements. When a comment period is provided, an unsigned preliminary FONSI should be provided along with the preliminary EA. For further guidance on FONSI, see Chapter 10 of this Guidebook.

If a comment period is offered, and comments are taken on a web site, the address of the web site can be linked to the ENBB by entering the address of the web site in the “Comment URL” box on the ENBB form. For further guidance see Chapter 3 of this Guidebook.

40 CFR 1506.6 provides instructions on public involvement methods and requirements.

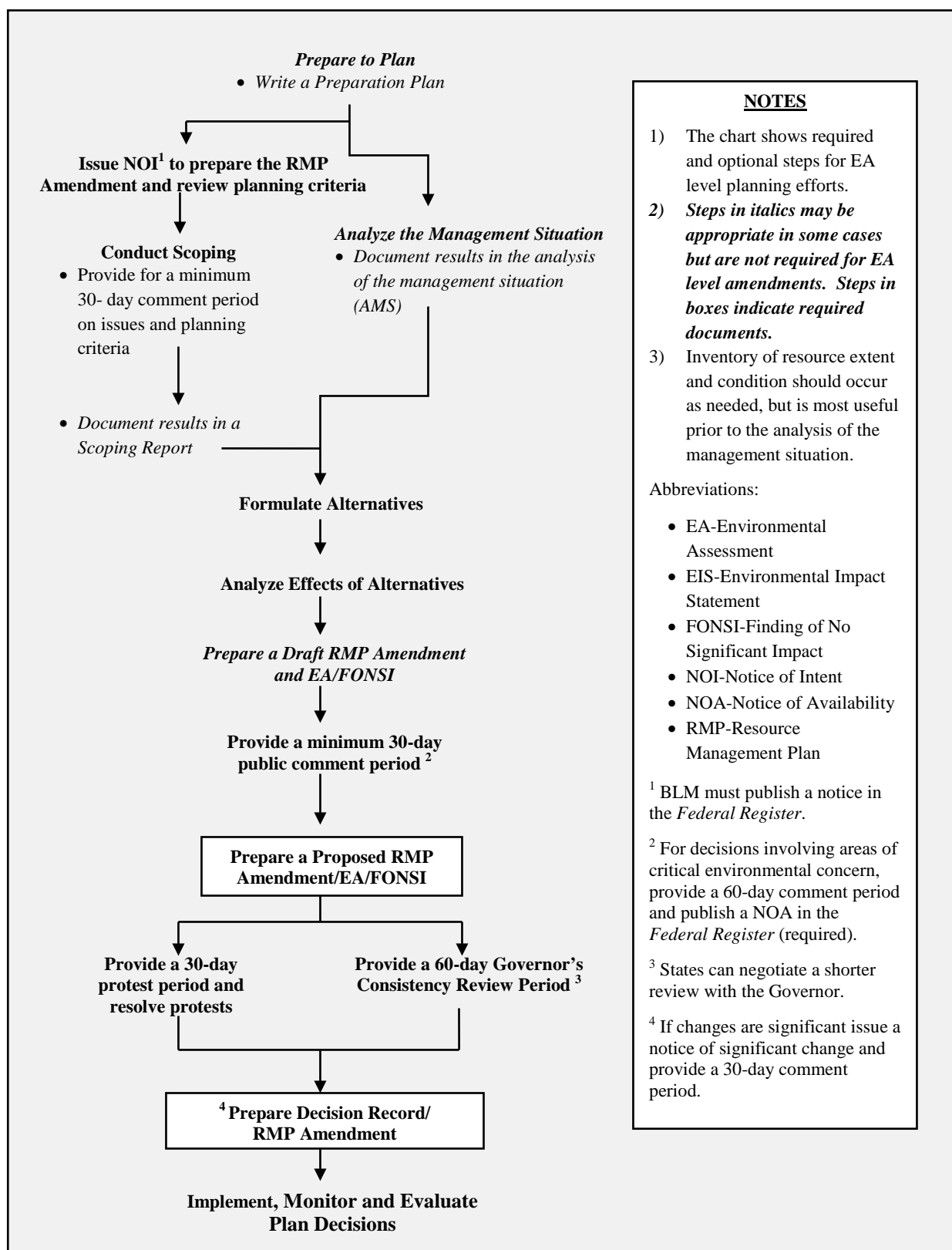
A comment period should be 15 to 30 calendar days so it provides adequate time for agencies and the public to review and respond to the document. The length of the comment period should be determined based on the complexity of the action and the level of controversy.

When a comment period is offered, the public should always be advised of Privacy Act implications. Include the following language in notices to the public:

“Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations and businesses, will be available for public inspection in their entirety.”

BLM’s Interim Management Guidelines for Lands under Wilderness Review (IMP H-8550-1) does not require a comment period for actions in Wilderness Study Areas (WSAs), but requires that BLM “Provide notice at least 30 days prior to making a decision on all proposals (regardless of the method of analysis or determination), except when it is not possible to do so because of emergency conditions or other regulatory timeframes, e.g., 43 CFR 3802. If public response indicates more time is required, the approval period may be extended, depending upon the situation and at the discretion of the Authorized Officer. In addition to the ENBB, specific notice should be sent to interested parties. Notifications should be sent early enough to provide recipients sufficient time to inform BLM of their concerns prior to the date we intend to authorize or carry out the proposed action.”

Plan amendment EAs are required only if an action for which an EA is being prepared is not in conformance with the existing land use plan. A plan amendment must be done with specific public involvement procedures and timing requirements as illustrated in Figure 3. These procedures and timing requirements apply only to an action that involves a plan amendment.

Figure 3. Public Involvement Requirements for Land Use Planning EA-Level Analysis

CHAPTER 3

ENVIRONMENTAL NOTIFICATION BULLETIN BOARD

The Environmental Notification Bulletin Board (ENBB) provides public notice of all NEPA activities occurring in each field office. The CEQ directs the BLM to “provide public notice of NEPA-related activities so as to inform those persons and agencies that may be interested or affected” (40 CFR 1506.6). The ENBB fulfills the minimum requirement of public notice and should be completed for all actions with BLM pending decisions. This includes decisions analyzed in documents for which BLM is a Cooperating Agency.

The Utah BLM is committed to fully informing and involving the public in decisions regarding the use of public lands. The Environmental Notification Bulletin Board (ENBB) is a searchable database of proposals under consideration by the Utah Bureau of Land Management (BLM) that provides a brief description of proposed decisions and identifies potentially affected or involved resources or values that are of interest to the public. The ENBB is a convenient method for informing the public of BLM Proposed Actions, but should not be the only method utilized. Program specific guidance regarding notices and posting must be followed. The ENBB will be maintained until replaced by e-Planning on a national basis.

ENBB Posting Guidance

1. ENBB entries should be promptly posted for all documented actions regardless of the level of National Environmental Policy Act (NEPA) documentation that applies. Therefore, all Categorical Exclusions (CXs), Determinations of NEPA Adequacy (DNAs), Environmental Assessments (EAs) and Environmental Impact Statements (EISs) currently under preparation by the BLM in Utah should be listed in the ENBB database.
2. Actions must be posted on the ENBB early in the NEPA process in order to invite the participation of interested parties to meet the requirements of CEQ (40 CFR 1501.7). Post an action immediately following the development of an adequate proposal, or upon the submittal of an adequate proposal for BLM consideration, and the assignment of a NEPA number for the action. A proposal should not be given a number or posted on the ENBB until the Authorized Officer accepts the proposal for consideration and analysis.
3. Regularly update the Status of Action of each ENBB form at each step of the NEPA process using the Status of Action Selection List Table 1. At a minimum, provide a statement and date that a NEPA action has been initiated, that a document has been completed, and a decision has been made.
4. The ENBB should be accessible in the public room or information access centers at each office.
5. Ensure that interested parties are advised and that notices, NEPA documents, and decisions are mailed to them and that such mailings are documented. (See Public Participation, Chapter 2, and Administrative Record, Chapter 11.)
6. Actions should remain posted on the ENBB for a minimum of 30 days after a decision has been made.

7. Case files should include the ENBB forms and be kept according to program specific guidance. Print copies of the ENBB notice that does not include the internal information.

The Searchable ENBB database is automatically saved and archived each day on a BLM server. The archives will be kept for 2 years. The archived forms are available from the “administration” menu for the ENBB.

Follow the instructions below to add, update, delete and archive forms.

To Add a Form for a New Proposal

1. Access the ENBB login page (<https://www.blm.gov/ut/enbb/index.php>) by going to the Utah BLM Intranet homepage and clicking on “ENBB” under the Natural Resources heading.
2. Enter the User Name and Password assigned to the field office.
3. Click on “Administration” and then “Add a Form For A New Proposal”.
4. Enter information onto the form following the instructions below under the heading of “To Fill Out a Form”.
5. After entering the necessary information click on “CONTINUE” at the top/bottom of the form to place it in the active database.

To Update an Existing Form

1. Access the ENBB login page by going to the Utah BLM Intranet homepage and clicking on “ENBB” under the Natural Resources heading.
2. Enter the User Name and Password assigned to the field office.
3. Click on “Administration” and then “Update a Proposal”.
4. Scroll to the applicable project or use the “Edit” and “Find” function from the main toolbar to find projects through a key word search.
5. Click on the pencil and paper icon to display the form in update mode.
6. Make necessary changes to the fields on the form following the instructions below under the heading of “To Fill Out a Form”. Normally the changes will be in the “Status and Date of Action” field.
7. After updating the necessary information click on “CONTINUE” at the top/bottom of the form to place it in the active database.

To Archive a Form

1. Access the ENBB login page by going to the Utah BLM Intranet homepage and clicking on “ENBB” under the Natural Resources heading.
2. Enter the User Name and Password assigned to the field office.
3. Click on “Administration” and then “Update a Proposal”.
4. Scroll to the applicable project or use the “Edit” and “Find” function from the main toolbar to find projects through a key word search.

5. Click on the 'X' Icon to move the form from the active database to the archived database.

To Display an Archived Form

1. Access the ENBB login page by going to the Utah BLM Intranet homepage and clicking on "ENBB" under the Natural Resources heading.
2. Enter the User Name and Password assigned to the field office.
3. Click on "Administration" and then "View Proposal Archives".
4. Scroll to the applicable project or use the "Edit" and "Find" function from the main toolbar to find projects through a key word search.
5. Click on the Magnifying Glass Icon to display the form.

To Restore an Archived Form

1. Access the ENBB login page by going to the Utah BLM Intranet homepage and clicking on "ENBB" under the Natural Resources heading.
2. Enter the User Name and Password assigned to the field office.
3. Click on "Administration" and then "View Proposal Archives".
4. Scroll to the applicable project or use the "Edit" and "Find" function from the main toolbar to find projects through a key word search.
5. Click on the Arrow Icon to restore the form to the active database.

To Search the Database on the Intranet

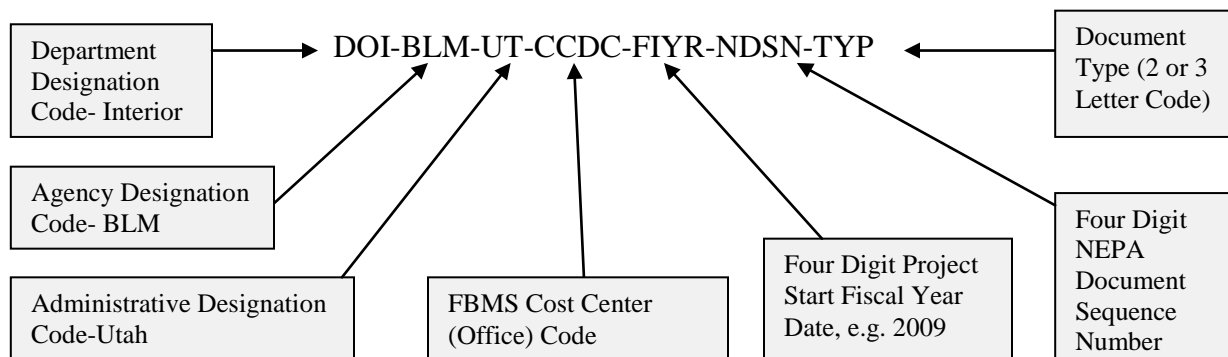
1. Access the ENBB login page by going to the Utah BLM Intranet homepage and clicking on "ENBB" under the Natural Resources heading.
2. Enter the User Name and Password assigned to the field office.
3. Click on "ENBB Application" and then "Search".
4. Enter search criteria in the fields on the search form.
5. Click "Search" at the bottom of the form
6. Scroll to the applicable project or use the "Edit" and "Find" function from the main toolbar to find projects through a key word search.
7. Click on the Magnifying Glass Icon to display the form.

To Fill Out the Form

Project Name: The name of the project should be typed into the box using upper and lower case letters and numbers.

Project Name, NEPA Log Number, Contact and County fields are required before a form can be saved in the database. Figure 4 illustrates the form.
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NEPA Log Number: Enter a log number according to the following protocol. Document numbers are assigned by each field office, for example:



FBMS Cost Center (Office) Code: The Cost Center Code is automatically assigned, based on the User ID and Pass Code used to login. Check the cost center code to ensure that they match the following codes:

Utah BLM FBMS Office Codes

Utah State Office	9100
Grand Staircase - Escalante National Monument/Escalante Field Station	0300
Color Country District	C000
Cedar City Field Office	C010
Richfield Field Office/Hanksville Field Station	C020
St. George Field Office	C030
Kanab Field Office	C040
Green River District	G000
Vernal Field Office	G010
Price Field Office	G020
West Desert District	W000
Salt Lake Field Office	W010
Fillmore Field Office	W020
Canyon Country District	Y000
Moab Field Office	Y010
Monticello Field Office	Y020

Contact: Type the name of the person assigned as the contact for the proposal using upper and lower case letters.

Phone Number: Enter the area code and phone number of the contact person.

File/Serial Number: Enter a case file number for proposals in BLM programs that require preparation of a serialized case file. The protocol for serialized case numbers is generally “UTU” followed by a series of numbers. In some cases a suffix of letters, numbers or a combination of numbers and letters follows the series of numbers and is separated from the numbers by a space or hyphen. Contact the office records administrator to obtain a file/serial number.

Document Type: Click on the down arrow and select from Departmental or BLM Categorical Exclusion (CX), Statutory Categorical Exclusion (SCX), Environmental Assessment (EA), Determination of NEPA Adequacy (DNA), or Environmental Impact Statement (EIS). This form may be left blank if the level of documentation has not been identified at the time the proposal is posted. If this is the case, place a note in the Status of Action Date box that explains that the type of documentation will be identified after additional scoping.

Administrative Departmental or BLM Categorical Exclusion (CX) is a category of actions for which EA or EIS is not required. Departmental and BLM CXs are listed in Department of Interior (DOI) Manual 516, 516 DM2, Appendix 1 and 516 DM 11.9.

Statutory Categorical Exclusion (SCX) includes the five categories of oil and gas activities categorically excluded by Section 390 of the Energy Policy Act of 2005.

Determination of NEPA Adequacy (DNA) is a worksheet which documents that existing NEPA documents are adequate for compliance with the National Environmental Policy Act (NEPA) and that an additional EA or EIS is not required. The Council on Environmental Quality (CEQ) NEPA Guidelines at 40 Code of Federal Regulations (CFR) 1502.9(c) and DM 516 11.6 indicate that NEPA documents are adequate when (1) a current proposed action has been previously proposed and analyzed and (2) resource conditions and other relevant circumstances have not changed significantly, so that there is not significant new information germane to the proposed action.

Environmental Assessment (EA) is a concise public document that briefly provides sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI) (40 CFR 1508.9). There are no specific levels of public involvement or procedures for preparation of EAs required by the CEQ, DOI or BLM.

Environmental Impact Statement (EIS) is a detailed written statement as required by section 102(2)(c) of NEPA (40 CFR 1508.11). Required public involvement procedures, including a scoping notice and a 45-day comment period on a Draft EIS, are outlined in the CEQ NEPA regulations.

Primary Program: BLM actions are often proposed by a specific BLM program. A primary program is the BLM program that originates a proposed action.

Primary programs may be entered by clicking on the box to the right of the title.

Based on the specific conditions related to a proposed action, a Primary Program not specifically listed in the menu may be entered in the “Other” box using upper and lower case letters.

Project Description: Briefly describe the project explaining who wants to do what, where, when, etc.

Legal Description: Enter a legal description by clicking on the down arrow of the Meridian box and selecting either the Uinta Special or Salt Lake Meridians. The Uinta Special Meridian includes portions of Daggett, Duchesne, Summit, Uintah and Wasatch Counties. The remainder of Utah is in the Salt Lake Meridian.

Enter the number of the townships, ranges and sections according to the following protocol:

- Township:** Number followed by capital “N” for North or “S” for South.
e.g.: 29S30S. - Do not insert periods or commas between entries in a series.
- Range:** Number followed by capital “E” for East or “W” for West.
e.g.: 8E10W. - Do not insert periods or commas between entries in a series.
- Section:** Numbers between 1 and 36. Leave a space between numbers in a series.

You do not need to fill out a complete legal description for projects that require lengthy entries. You may enter townships and ranges and leave sections blank.

General Location and Other Remarks: Any useful background information about the location of the project such as names of topographic features or local areas involved, special conditions regarding the scope of the project or preliminary issues and alternatives may be entered in this box in upper and lower case letters.

County(s): Click on the down arrow and select from the menu of counties. Multiple counties may be entered by “control” plus additional clicks on more county names. If counties in states outside of Utah are involved, the county names may be entered into the “Other” box in upper and lower case letters. Leave a space between the names.

Special Interests: These are specific categories of resources or activities that are involved in or could be affected by a proposed action. These categories have been identified to be of special interest to various segments of the public and have been placed on the notification form at the request of the public. Categories of special interest may be entered by clicking on the box to the right of the titles in the menu. More than one special interest may be entered.

Based on the specific conditions related to a proposed action, a “special interest” not specifically listed in the menu may be entered in the “Other” box using upper a lower case letters.

The special interest headings in the menu are defined as follows:

ACEC: These are Areas of Critical Environmental Concern. This category includes all existing ACECs designated in Land Use Planning Decisions, and potential ACECs. Existing ACECs are listed on the Utah BLM Internet Website, http://www.blm.gov/ut/st/en/prog/blm_special_areas/acecs.html.

A potential ACEC is a nominated area where the BLM has determined that relevant and important values exist, and the area will be considered for potential designation during land use planning.

Crucial Habitat: This includes proposals that will or may affect crucial habitat identified by the BLM or the Utah Division of Wildlife Resources (UDWR) as particularly important for game and non-game species that are **not** considered to be “special status species”.

Riparian: This includes proposals that will or may involve or affect streamside vegetation or habitat.

Cultural: This includes proposals that will or may involve or affect prehistoric and historic sites, or Native American traditional cultural properties, that are listed, or eligible to be listed, on the National Register of Historic places.

Native American Concerns: This includes proposals that will or may involve or affect Native American Traditional Cultural Properties (TCP's) that include, but are not limited to, subsistence-level activities (e.g. wood gathering, hunting, pinyon nut gathering), access to sacred sites, or traditionally gathered materials (e.g. medicinal plants, pottery clay, minerals) at locations of interest to Native Americans.

Special Status Species: This includes proposals that will or may involve the following categories of special status species (BLM Manual 6840):

1. Federally Listed Threatened and Endangered Species and Designated Critical Habitats
2. Federally Proposed Species and Proposed Designated Critical Habitats
3. Candidate Species
4. State Listed Species in the Utah Division of Wildlife Resources Sensitive Species list)
5. Sensitive Species are plant and animal species on the Utah BLM State Director's Sensitive Species List. These species are identified by Instruction Memorandum (UT-2003-027)

Note: 1, 2, and 3 are all identified by Fish and Wildlife Service Federal Register Notices.

Visual Resources: This category includes proposals that:

1. Will or may not be compatible with BLM or other agency visual resource management objectives; or
2. Will or may affect viewsheds that are of high interest to the public such as along back country byways or the viewsheds of a National Park etc.

Designated Wilderness/WSA: This category includes proposals that will or may affect or involve Wilderness Areas (WAs) and Wilderness Study Areas (WSAs).

WSAs are included in the National Wilderness Preservation System (NWPS). WSAs (including Instant Study Area (ISA) have been determined by the BLM to possess wilderness characteristics through the wilderness inventory process mandated by section 603 of the Federal Land Policy and Management Act (FLPMA) and for which the President made recommendations to Congress on inclusion in the NWPS in 1991.

It also includes areas that are formally recognized by the National Park Service, the U.S. Forest Service (FS) or U.S. Fish and Wildlife Service, as possessing wilderness characteristics through inventories required by Federal legislation.

Wild and Scenic Rivers: These include proposals that will or may involve or affect river segments designated to the National Wild and Scenic Rivers System, and river segments identified by BLM as eligible or suitable for such designation through land use planning.

Areas with Wilderness Characteristics: These include lands, outside of Wilderness Study Areas (WSAs) and designated Wilderness that:

1. Have been re-inventoried by BLM and determined to possess wilderness characteristics;
2. Are within areas that other agencies have determined may possess wilderness characteristics.

If these categories do not apply, check “None” or identify specific resources of interest in the “Other” field.

Status of Action Date: Enter the status of the action using the suggested headings in Table 1 (Status of Action). Retain all entries in this field. Print copies of the ENBB form for the case or project file each time the ENBB is updated. Keeping a running tally entry informs the public of the project’s current status. This field also serves as a reminder when summarizing public involvement and notification within the document and in the appropriate decision.

Comment URL: If comments are being taken at a specific internet site or e-mail address, enter the URL or e-mail address in the “Comment URL” box and a link to the comment site will be established. If E-mail addresses are linked, it is suggested that specific mailboxes be established rather than personal e-mail addresses.

Comment Period: Click on the down arrow and select “Yes” or “No”.

Upload this File and File Label: If you want to attach files for EAs, FONSI, DRs, Maps, Photos etc. to the form, go to the “Upload this File” field, enter the specific file name (with driver address) or “Browse” and select the proper address and file name for the file to be attached. After selecting a file, click on “Open”. In the “File Label” field enter a name as you want it to appear on the forms available to the public. The names of attached files in the file label box should be short and should not contain numerals or symbols. It is suggested that only pdf or protected files be posted onto the ENBB.









Internal Use Only Questions: Follow the instructions on the Form when populating these fields. Advise the Authorized Officer before clicking “Yes” on any of these fields. An early alert to the State Director will be required and coordinated through External Affairs.

Continue: After entering information on the form, click on the “CONTINUE” button to place the form in the active database.

Table 1 Status of Action Selection List

15 DAY PUBLIC COMMENT/REVIEW PERIOD BEGINS	FONSI SIGNED
15 DAY PROTEST PERIOD BEGINS	FONSI and DECISION RECORD SIGNED
30 DAY APPEAL PERIOD	NEPA DOCUMENT CATEGORY CHANGED
30 DAY PROTEST PERIOD BEGINS	NO CHANGE
30 DAY PROTEST PERIOD ENDS	NOTE NEW ADDRESS UNDER "PROJECT DESCRIPTION"
30 DAY PUBLIC COMMENT/REVIEW PERIOD BEGINS	NOTICE OF ACTION
60 DAY PUBLIC COMMENT/REVIEW PERIOD BEGINS	NOTICE OF AVAILABILITY PUBLISHED IN FEDERAL REGISTER
90 DAY PUBLIC COMMENT/REVIEW PERIOD BEGINS	NOTICE OF INTENT PUBLISHED IN FEDERAL REGISTER
APPEAL DISMISSED BY IBLA	OTHER
APPLICATION AMENDED	PROJECT CANCELED
APPLICATION FILED	PROJECT
APPLICATION FOR PERMIT TO DRILL (APD) RECEIVED	COORDINATION/CONSULTATION
ARCHIVED	PROJECT PENDING/ON HOLD
BEGIN 30 DAY IMP NOTIFICATION PERIOD	PROJECT POSTPONED
CX BEING PREPARED	PROTESTED
CX SIGNED	PUBLIC COMMENT/REVIEW PERIOD ENDS
DECISION APPEALED	PUBLIC MEETING HELD
DECISION IN FULL FORCE & EFFECT	PUBLIC MEETING TO BE HELD
DECISION RECORD SIGNED	WORKING DOCUMENT
DECISION SIGNED TO ISSUE PERMIT	RECORD OF DECISION SIGNED
DECISION STAYED BY IBLA	RESOURCE REVIEW INITIATED
DECISION VACATED	REVIEW PERIOD BEGINS
DNA BEING PREPARED	SCOPING PERIOD
DNA SIGNED	SIGNATURE PAGE CORRECTED
EA COMPLETED	W/NO CHANGE TO DECISION
EA BEING REVISED	STATE DIRECTOR REVIEW
EA STARTED	
EIS STARTED	

Figure 4 ENBB Form

ENVIRONMENTAL NOTIFICATION BULLETIN BOARD																													
SEARCH ENBB																													
SEARCH>>																													
Project Name:	<input type="text"/>																												
NEPA Log Number:	<input type="text"/>																												
Created Date:(mm/dd/yyyy)	<input type="text"/>																												
Field Office/Code:	Select a Field Office 																												
Contact:	<input type="text"/>																												
Phone Number:	<input type="text"/>																												
File/Serial Number:	<input type="text"/>																												
Document Type:	Please Select 																												
Project Description:	<div><div></div><div></div></div>																												
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County(s): <small>help</small>	<table border="1"> <tr> <td> <div> <div>Kane</div> <div>Millard</div> <div>Morgan</div> <div>Piute</div> <div>Rich</div> <div>Salt Lake</div> <div>San Juan</div> <div>Sanpete</div> </div>  </td> <td>Other:</td> <td><input type="text"/></td> </tr> </table>	<div> <div>Kane</div> <div>Millard</div> <div>Morgan</div> <div>Piute</div> <div>Rich</div> <div>Salt Lake</div> <div>San Juan</div> <div>Sanpete</div> </div> 	Other:	<input type="text"/>																									
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Special Interests:	ACEC:	<input type="checkbox"/>	Special Status Species:	<input type="checkbox"/>
	Critical Habitat:	<input type="checkbox"/>	Visual Resources:	<input type="checkbox"/>
	Cultural:	<input type="checkbox"/>	Designated Wilderness / WSA:	<input type="checkbox"/>
	Fire Rehabilitation:	<input type="checkbox"/>	Wild & Scenic Rivers:	<input type="checkbox"/>
	Riparian:	<input type="checkbox"/>	Areas with Wilderness Characteristics:	<input type="checkbox"/>
	None:	<input type="checkbox"/>	Native American Concerns:	<input type="checkbox"/>
	Other:	<input type="text"/>		
	Status and Date of Action:	<div></div>		
Comment URL:	<input type="text"/>			
Comment Period Provided:	Select an Option <input type="button" value="v"/>			
<input type="button" value="SEARCH>>"/>				

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CHAPTER 4

INTERDISCIPLINARY TEAM ROLES AND RESPONSIBILITIES

Section 102 (A) of NEPA and the CEQ guidelines for implementation of NEPA require all agencies of the Federal Government to “utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment. The CEQ guidelines at 40 CFR 1502.6 note that “The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (Section 1501.7).”

NEPA’s requirement to use a systematic and interdisciplinary (ID) approach is perhaps the most important element for ensuring an accurate and comprehensive scientific analysis. The term systematic denotes a process that is conducted using a logically ordered and methodological approach. The requirement for an interdisciplinary approach places a burden on the BLM to ensure that the environmental analysis is conducted by knowledgeable individuals or specialists representing resource disciplines that may be potentially affected or are fundamental to performing a thorough analysis.

There are various interpretations of what constitutes an “interdisciplinary” process. An interdisciplinary approach is one that applies separate disciplinary theories, skills, data, and ideas to a common problem. In the case of NEPA analysis, the “common problem” is to produce an objective, unbiased, scientifically supportable analysis of reasonably foreseeable impacts from proposed and other reasonably foreseeable actions. The interdisciplinary approach requires that members of ID teams be given an opportunity:

- for mutual inspection of one another's analysis and conclusions,
- to question the scientific basis, accuracy, and objectivity of each resource specialist’s analysis,
- to modify their own analysis based on and consistent with the analysis and findings of other team members, and
- to influence the overall analysis conclusions.

Interdisciplinary conclusions are consensus-based; meaning each member of the team has an equal opportunity to influence the analysis. Members of ID teams interact and work across specialties to gain a broader perspective of the impacts of an action than any individual member of the team may have when the analysis begins.

As noted in the CEQ guidelines, the interdisciplinary interaction is to be scaled to the issues and potential impacts of the proposed and alternative actions. When the proposed action is simple and straightforward and only a few issues, mitigation measures, or alternatives need to be considered, the interdisciplinary process may simply consist of the lead staff specialist or NEPA/Environmental Coordinator meeting with the resource specialists to complete an interdisciplinary team analysis document stating none or few issues. However, when the proposal is complex or controversial, a full interdisciplinary team should be convened to systematically identify the chain of direct and indirect impacts possibly resulting from the

proposed and alternative actions. The following guidance is provided to facilitate and document ID team interaction and findings.

Assumptions

The role and responsibility of the ID team is first based on these assumptions:

1. The Authorized Officer must accept the project and approve initiation of the NEPA process before an ID team works on the project;
2. The NEPA/Environmental Coordinator is also the NEPA Specialist;
3. The NEPA/Environmental Coordinator will review every NEPA document prepared in the field office;
4. Part of the NEPA/Environmental Coordinator's role is to assure proper and consistent ID Team participation and documentation; and
5. There is clear management direction and support for NEPA review in each office.

ID Team Role

The ID team role is to facilitate internal scoping procedures for the impact analysis in each NEPA document. The ID Team also provides or reviews the write-up in the EA for their potentially impacted resource(s). An Authorized Officer and NEPA/Environmental Coordinator are responsible for overall coordination and oversight of the content of the EA. It is the responsibility of each member on the ID Team to provide the best information available for each NEPA document to assure appropriate consideration of all resources and issues. This must include proper determination of which resources issues are present and which have the potential of being impacted. They must provide sufficient evidence for suitable analysis in the document.

ID Team Leader

When a proposal is received or considered, a brief description of the proposed action should be presented to management to determine the merits of the action. When the Authorized Officer decides to proceed with consideration and analysis of the proposal, a team leader is assigned to the project and the priority for completion is established. The team leader, through management oversight, has the responsibility to form an ID team to initiate the scoping process.

The team leader, through coordination with management and the NEPA/Environmental coordinator, must also determine the necessity for meeting with the ID Team, other staff specialists, and managers to discuss project scoping; to define the proposed action and all possible alternatives; to identify potential issues and impacts; to discuss the level of public involvement and possible controversy with the project; to determine the amount of team and other staff involvement and time frames involved; to make any necessary public contacts; to initiate the consultation process with the FWS, SHPO, etc., if appropriate; and to schedule the field exam. In some cases, the ID Team Checklist can be completed at that time by some members of the team. Chapter 5 of this Guidebook provides detailed instructions for preparation of the checklist.

The team leader is responsible for preparing a full description or fact sheet (summary) of all the components and connected actions of the proposed action. The team leader must initiate the checklist and see that it is routed and completed.

Upon receiving the completed checklist from the ID team members, the team leader will review the issues identified in the ID Team checklist for accuracy. The team leader will then review and incorporate write-ups received from resource specialists into the NEPA document. If the team leader feels that the comments on any particular resource may not be accurate, valid, or complete, he or she will speak with the appropriate specialist (and the specialist's supervisor if necessary) to acquire the necessary information and analysis and/or resolve any disagreements or problems.

ID Team Member Responsibilities

Each team member, in completing their appropriate section of ID Team Checklist, must understand the proposed action and review and complete the ID Team Checklist for each project in a timely manner. It is also their responsibility to provide a full write-up for each section of the EA (e.g. Identification of Issues, Affected Environment, and Environmental Consequences, including cumulative impacts) or prepare a technical report for the EA writer/lead to incorporate into the document. Any applicable existing analysis should be referenced in the checklist if it accurately reflects what is needed for the current proposal. The NEPA/Environmental coordinator should be utilized for any technical review needed by the ID team or team leader.

When completing the rationale for not analyzing an issue of concern, a simple "no impact" declaration is not acceptable. Explain why the element would not be affected and how you know. Remember, this rationale must be sufficient to justify why there are no impacts. Refer to or attach technical reports or other documents as necessary. Explain the nature and extent of potential impacts. If a resource of concern is not present, then a statement that the element is not present and what data sources or information were used to lead to that conclusion will suffice.

Some of the determinations made by the ID Team, the Authorized Officer, and the NEPA/Environmental Coordinator to help facilitate the NEPA process include:

- What is the level of analyses needed?
- Is the proposed action mostly routine, normal, or standard occurrence?
- Are the potential issues and impacts of minimal nature which can be routinely mitigated, or will they be of a substantially higher level?
- Will more than routine public involvement be necessary?
- Will public meetings be necessary?
- What is the potential for high public concern or sensitivity?

Refer to Appendix 1 of H-1790-1 for Supplemental Authorities to be considered by the ID Team.

Answers to these questions will help determine the amount of data and input the team members need to provide, as well as the level of complexity required for that particular NEPA analysis.

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CHAPTER 5

INTERDISCIPLINARY TEAM CHECKLIST

The use of the “Interdisciplinary (ID) Team Checklist” demonstrates that appropriate elements of the Human Environment and other resource issues identified through public and agency involvement have been adequately considered and evaluated for actions requiring NEPA analysis, whether the analysis is provided in an Environmental Assessment (EA) or determined to be adequate using a Determination of NEPA Adequacy (DNA). An “ID Team Checklist” should **not** be prepared for Categorical Exclusion (CX) documentation. See H-1790-1 Section 6.4 and Chapter 1 of this Guidebook for additional instructions.

GENERAL INSTRUCTIONS

Each item of the checklist should be completed by the assigned resource specialist. The Team Leader or NEPA Coordinator and Authorized Officer sign the Final Review portion of the checklist and provide information in the Comment Response that supports their conclusions. Such information may be provided in the rationale column or attached to the checklist. When information is attached, it should be referenced in the rationale column.

The checklist may be drafted in handwriting or completed on a computer network that can be accessed by the assigned resource specialists. It is best; however, that the checklist not be signed until it and the NEPA documentation is made final.

For use with EAs:

The checklist is to be used to guide the preparation of the EA. It should be utilized as a scoping exercise at the beginning of the EA process to identify issues, conflicts, or potential impacts of a proposed action and initial alternatives to the action including the No Action alternative. This should be initiated at the earliest interdisciplinary team meeting and **updated as needed** until the document is complete. The team lead will use the information contained in the Checklist to determine issues to be analyzed in the EA. **All EAs must include the checklist as an appendix** (See Chapter 8).

The checklist, regardless of its degree of completion, should be included in each review of the EA so that it too is available for comment by resource specialists and other members of the interdisciplinary team. This is especially important since the checklist also serves to document the rationale for dismissing, when appropriate, resources covered by supplemental authorities and other resources/concerns from further analysis and the input to do so is needed by resource specialists. It is also imperative that the information contained in the checklist be consistent with the scope and analysis contained in the EA.

For use with DNAs:

The checklist serves to document an Interdisciplinary Team's concurrence on whether or not existing NEPA analysis adequately covers an action. Resource specialists either acknowledge that existing analysis is adequate, that there is "no change," or state how the action would not meet the adequacy criteria presented in section D of the DNA worksheet (see Chapter 7). When the latter is the case, such a statement would be used to respond to the criteria in section D of the worksheet, indicating the change that renders the analysis inadequate. The rationale for a NC finding can include that the resource is not present (NP) or that if present but not analyzed in the original document there would be no impact (NI) because of specified conditions. This discussion should be included in the Rationale for Determination column of the ID Team Checklist. Further instructions are provided for the checklist below.

SPECIFIC INSTRUCTIONS

Information should be included on the Interdisciplinary Team Checklist in the appropriate columns as presented below.

1st Column - Write in Only One of the Following Possible Determinations

- NP = not present in project area
- NI = present, but concern would not be impacted by the proposed action or alternatives to the degree that detailed analysis and disclosure is required
- PI = present, requires a detailed analysis of impacts from the proposed or alternative actions to support an informed determination as to the significance of the impacts (Note: When "PI" is used in a checklist for a DNA review, it indicates that NEPA is not adequate and either an EA or EIS is required.)
- NC = (DNAs only) the anticipated impacts not changed from those disclosed in the existing NEPA documents cited in Section D of the DNA form

Each field office may modify the list of resources and concerns, by either adding to them or eliminating from them, to reflect only those items commonly raised as potential issues during scoping for projects in their specific resource area. The forms may also be modified to include the names of the specialists who will be responsible for review of each identified resource.

2nd Column - List of Resources and Issues Considered

It is recommended that all supplemental authorities identified in Appendix 1 of the H-1790-1 NEPA Handbook be addressed. As discussed under General Instructions, the items listed may be modified as appropriate for each field office.

3rd Column – Rationale for Determination

Assigned specialists must give their reasoning for the determination made in the 1st column. It should include information and references explaining how they came to their conclusion. Technical reports and additional information can be referenced in this column and placed in the administrative record. It is especially important that the resources covered by supplemental authorities be adequately addressed.

Checklists and forms are helpful for formatting, but are no substitute for careful, organized discussion, description, and analysis.

- **NP** – Briefly describe how each specialist knows the resource/concern is not present. Reference any inventory, site visit, map or other GIS data, or even a specialist’s familiarity of the site to support a conclusion.
- **NI** – Provide a rationale why each resource/concern would not be impacted by the proposed action or alternatives to the degree that further analysis and disclosure is required. This rationale must show that serious consideration was given as to why potentially significant impacts are not expected. “Trust me” statements without substance, such as *“No impacts anticipated as a result of the proposed action,”* are not acceptable.
- **PI** - Provide a brief statement as to the specific resource issue to be analyzed. All items given the “PI” determination must be fully analyzed in the EA. These items require a detailed analysis of impacts from the proposed or alternative actions to support an informed determination as to the significance of the impacts.

It is important that the issues presented in Chapter I (section 1.7) be consistent with the statement provided here, if not verbatim.

Use “PI” for DNAs only if existing NEPA analysis is not adequate. Section D of the DNA Worksheet must be checked as a “NO.”

- **NC** – This applies to DNAs only. Explain why the proposed action and/or resource impacts would be the same as those analyzed in the existing NEPA documents cited in Section D of the DNA form. Not all changes in circumstances or conditions require further analysis. It is appropriate to determine that even though resource conditions have changed, there is no potential for undisclosed relevant impacts; therefore no change to existing analysis is required. NI and NP may be used in the Rationale column to explain why the overall Determination (finding) is NC.

4th Column - Signature

Assigned specialist signs in this column indicating concurrence that each element, resource issue, or other concern was appropriately addressed (for EAs) or concurrence with the determination of NEPA adequacy (for DNAs) related to the specific items. The Team Leader, NEPA Coordinator or Authorized Officer may sign the checklist based on information that supports their conclusions.

5th Column - Date of Signature

Enter the date of final concurrence as indicated by the signature.

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ID TEAM CHECKLIST TEMPLATE

INTERDISCIPLINARY TEAM CHECKLIST

Project Title:

NEPA Log Number:

File/Serial Number:

Project Leader:

Follow the italicized instructions below and then delete the asterisks “” in the checklist, this sentence, and the instructions.*

**Rationale for Determination is required for all “NIs” and “NPs.” Write brief issue statements for “PIs” and state that they are analyzed in detail in Chapter 4 of the EA.*

***Varies by specific location and BLM Field Office*

DETERMINATION OF STAFF: *(Choose one of the following abbreviated options for the left column)*

NP = not present in the area impacted by the proposed or alternative actions

NI = present, but not affected to a degree that detailed analysis is required

PI = present with potential for relevant impact that need to be analyzed in detail in the EA

NC = (DNAs only) actions and impacts not changed from those disclosed in the existing NEPA documents cited in Section D of the DNA form. The Rationale column may include NI and NP discussions.

Determination	Resource	Rationale for Determination*	Signature	Date
RESOURCES AND ISSUES CONSIDERED (INCLUDES SUPPLEMENTAL AUTHORITIES APPENDIX 1 H-1790-1)				
	Air Quality			
	Areas of Critical Environmental Concern			
	BLM Natural Areas			
	Cultural Resources			
	Greenhouse Gas Emissions			
	Environmental Justice			
	Farmlands (Prime or Unique)			
	Fish and Wildlife Excluding USFW Designated Species			
	Floodplains			
	Fuels/Fire Management			
	Geology / Mineral Resources/Energy Production			
	Hydrologic Conditions			

Chapter 5 - ID Team Checklist
Template

Determination	Resource	Rationale for Determination*	Signature	Date
	Invasive Species/Noxious Weeds			
	Lands/Access			
	Livestock Grazing			
	Migratory Birds.			
	Native American Religious Concerns			
	Paleontology			
	Rangeland Health Standards			
	Recreation			
	Socio-Economics			
	Soils			
	Threatened, Endangered or Candidate Plant Species			
	Threatened, Endangered or Candidate Animal Species			
	Wastes (hazardous or solid)			
	Water Resources/Quality (drinking/surface/ground)			
	Wetlands/Riparian Zones			
	Wild and Scenic Rivers			
	Wilderness/WSA			
	Woodland / Forestry			
	Vegetation Excluding USFW Designated Species			
	Visual Resources			
	Wild Horses and Burros			
	Areas with Wilderness Characteristics			

FINAL REVIEW:

Reviewer Title	Signature	Date	Comments
Environmental Coordinator			
Authorized Officer			

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CHAPTER 6

CATEGORICAL EXCLUSIONS

This Chapter explains application and documentation requirements for use of Categorical Exclusions (CX). Chapter 4 of the BLM H-1790-1 provides additional guidance. Appendix 1 of this Guidebook identifies the Categorical Exclusions (Departmental, BLM and Energy Policy Act).

Identifying Potential CXs

Categorically excluded actions are those actions that are generally excluded from NEPA analysis because they fall into certain "categories." There are two types of Categorical Exclusions: 1) categories of actions which Federal agencies have determined do not have a significant effect on the quality of the human environment (individually or cumulatively) and for which neither an EA nor EIS is generally required (40 CFR 1508.4), and 2) Oil and gas actions that are statutorily excluded from further NEPA review by Section 390 of the Energy Policy Act of 2005. These categories are listed in 43 CFR Part 46.210 and 516 DM 11.9 and Section 390 of the Energy Policy Act of 2005.

Determining if an Extraordinary Circumstance Precludes Use of a CX

Actions that meet the categories identified in 43 CFR Part 46.210 or 516 DM 11.9 must be subjected to sufficient environmental review to determine whether they meet any of the extraordinary circumstances, in which case, further analysis and environmental documents must be prepared for the action (40 CFR 1508.4). Extraordinary circumstances (BLM H-1790-1) are listed in 43 CFR Part 46.215.

The CXs established by Section 390 of the Energy Policy Act of 2005 are not subject to review for extraordinary circumstances because they are established by statute and are not under the CEQ or agency procedures pursuant to 40 CFR 1507.3 and 1508.4.

Documentation Requirements

CEQ has consistently stated that Categorical Exclusions should have minimal, if any, documentation developed at the time of the specific action application. Additionally, CEQ strongly discourages procedures that require additional paperwork to document that an activity has been categorically excluded. CEQ has stated that only documentation used to establish the categorical exclusion is required. However, some courts have found the need for some documentation at the time a specific categorical exclusion is used that explains that the proposed action fits the category relied upon by the agencies and that when applicable there are no extraordinary circumstances in which such a normally excluded action may have a significant environmental effect (CEQ Taskforce Report, September 9, 2003).

For the categories of actions listed in 43 CFR Part 46.210 and 516 DM 11.9, the Categorical Exclusion Documentation Format When Using Categorical Exclusions Not Established By Statute form, including the **Land Use Plan Conformance and Categorical Exclusion Review Record** is used to document plan conformance, applicability of the CX, the basis of the findings in the extraordinary circumstances review and that assigned BLM specialists have reviewed the proposal and concur with the findings in the review for extraordinary circumstances.

For CXs identified in Section 390 of the Energy Policy Act of 2005, use the **Energy Policy Act Section 390 CX Documentation** form provided in Appendix 7 of this guidebook. Because of the requirement for an administrative record in protests, appeals, and litigation, and to insure interdisciplinary review of proposed actions, **Utah BLM policy is that CX reviews should be documented using the “Categorical Exclusion Documentation Format When Using Categorical Exclusions Not Established By Statute” form and Categorical Exclusion Review Record form for all actions that could physically affect the environment. The Extraordinary Circumstances review should be completed for actions that are controversial, complex or likely to be challenged.** Examples of actions that could physically affect the environment include construction, modification, installation, or removal of facilities. Such documentation is not required for paperwork actions such as:

- transfers of permits under the same terms and conditions
- suspensions of operations
- issuance of titles
- royalty determinations
- designation of logical mining units
- revocations
- maintenance of plans
- routine financial transactions
- renewals, assignments, transfers and conversions of rights-of-way, leases, and permits where no additional rights are conveyed beyond those granted by the original authorizations, or where no new facilities or other changes are needed

Statutory CXs established by Section 390 of the Energy Policy Act, hazardous fuel and post-fire stabilization/rehabilitation CXs must be documented using specifically required forms (see Appendices 6 & 7 of this Guidebook). Documentation forms must be included in the case or project file.

A CX review does not provide for an analysis of potential impacts from a proposed action, nor does it analyze alternatives. A decision for the proposed action is required, even if a CX applies. **Decisions based on a CX should not be accompanied by a “Finding of No Significant Impact” since a categorically excluded action is defined as one that generally has no significant impact on the human environment or one that is statutorily excluded by Section 390 of the Energy Policy Act of 2005.** Stipulations to mitigate environmental impacts may be specified and included in a decision to permit a categorically excluded action.

In the program specific decision, identify the categorical exclusion that applies.

GENERAL INSTRUCTIONS

Processing Sequence

- Check 43 CFR Part 46.210, 516 DM 11.9 and Section 390 of the Energy Policy Act of 2005 for the list of exclusions (see Appendix 1 of this Guidebook).
- For CXs listed in 43 CFR Part 46.210 or 516 DM 11.9 review the list of extraordinary circumstances in 43 CFR Part 46.215 and provide a rationale for each determination. The lead preparer should coordinate with specialists to make determinations and provide rationale.
- Obtain a NEPA Log number.
- Enter the project information on the ENBB. Retain a copy for the project or case file.
- Obtain a Categorical Exclusion Review and Approval form or an Energy Policy Act Section 390 CX Documentation form.
- Provide only a brief description of the proposed action and its location on the form. A map or detailed information that helps describe the project may be referenced as part of the project file or attached at the end of the worksheet. In the detailed description include standard operating procedures, specifications, requirements, and map.
- Ensure conformance with land use plan.
- For CXs listed in 43 CFR Part 46.210 or 516 DM 11.9 which require documentation, finalize the Categorical Exclusion Review and Approval form. For CXs included in Section 390 of the Energy Policy Act of 2005 complete the Energy Policy Act Section 390 CX Documentation form found in Appendix 7 of this guidebook. Include in the decision a citation of the CX; reference the documentation file and appropriate stipulations. Route the Categorical Exclusion Review and Approval form or Section 390 Energy Policy Act CX Documentation form with a Categorical Exclusion Review Record for review and signature by the assigned specialists. The Team Leader, NEPA Coordinator, or Authorized Officer may sign the review record when they are acting as a specialist.
- Route the Categorical Exclusion Review and Approval form or Energy Policy Act Section 390 CX Documentation form to the Environmental Coordinator for concurrence on the plan conformance review, CX confirmation, review record and if applicable the extraordinary circumstances review.
- Obtain Authorized Officer's signature.
- Post decision date on ENBB.
- File according to Field Office policy.

Required Elements:

- Completed Categorical Exclusion Review and Approval form including the Land Use Plan Conformance and Categorical Exclusion Review Record or Energy Policy Act Section 390 CX Documentation Form.
- Map(s).

Post Work:

- The preparer is responsible for ensuring that each completed original CX form is filed in the proper documentation file per the File Code (Project/Serial Number). The documentation file must be the same as the file requiring the action. If there is no permanent retention file in which to place the CX, the CX should be placed into Central Files number 1791 or a centrally located NEPA file. Check with the Environmental Coordinator for specific office procedures.
- Enter a Section 390 CX on the Tracking Log required by WO IM 2005-247.

Use of Categorical Exclusion Documentation Format When Using Categorical Exclusions Not Established by Statute Form

Although the majority this form is self-explanatory, the following is some of the information to be included:

Project Information: A project location map must be attached.

Plan Conformance: Specify results of Land Use Plan conformance review. Does the plan specifically provide for the action? If not, is the action consistent with the terms, conditions, and decisions of the approved plan?

The following information must be provided:

- Land Use Plan(s) name and date.
- Conformance review results, identifying and stating specific decision.
- If the plan does not specifically mention the action, explain how the action is consistent with plan objectives, terms, and conditions.

Categorical Exclusion Reference: Cite the applicable CX reference in 43 CFR Part 46.210 or 516 DM 11.9. Write out the full reference.

Extraordinary Circumstances Review: The following extraordinary circumstances, listed in 43 CFR Part 46.215 must be reviewed for each action to ensure no extraordinary circumstances exist that would preclude the action from being categorically excluded. Preparers must provide a rationale for their determination on each extraordinary circumstance. Information to be included in rationale is italicized following each extraordinary circumstance below. The Extraordinary Circumstances Review should be documented using the review form when actions are controversial, complex or likely to be challenged. In instances where the action is routine or simple, this form is optional. An action cannot be categorically excluded if it would:

1. Have significant impacts on public health or safety.

Explain why the project would not have significant impacts on public health and safety by describing how the action is designed or planned to keep impacts to a minimum and not impair public health or safety.

2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

CXs are not appropriate for actions within a Wilderness Study Area (per the Wilderness Interim Management Policy) or a Wilderness Area. Actions within ACECs, Wild and Scenic Rivers, Monuments, and other “special designations” may still be permitted as long as the objectives of the special designations are met.

Identify if any of the above concerns are present in the impact area. Demonstrate

how impacts would or would not be significant. Specify Areas of Critical Environmental Concern, Wilderness Study Areas, Monuments, and other areas with special designation. BLM shall determine whether a proposed action will occur in a floodplain or wetland area. If an action would significantly impact a floodplain or wetland area, this circumstance would apply and alternatives must be considered.

3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].

Controversy over environmental effects pertains specifically to disagreement over the nature of the impacts among those with special expertise. Controversy does not reflect the level of public concern, support or opposition for an action.

Explain whether the impacts of the action are well-known and demonstrated in other projects that have been implemented and monitored. Cite monitoring reports done for similar projects and the conclusions of the reports.

4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

Categorically excluded actions generally have very predictable consequences well established as insignificant. If an impact of an action cannot be predicted due to varying circumstances and has potential to be significant, additional analysis would be necessary.

5. Establish a precedent for future action or represent a decision in principal about future action with potentially significant environmental effects.

See the scoping section of this Guidebook for a definition and explanation of connected actions.

Explain whether the action is connected to another action that

would require further environmental analysis or if it would set a precedent for future actions that would normally require environmental analysis.

6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

See CFR 1508.7 and the scoping section of this Guidebook for a discussion of cumulative actions and impacts.

7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.

Confirm that cultural surveys have been completed; the appropriate data bases have been reviewed and appropriate concurrence from SHPO and tribes have been received indicating that significant impacts are not expected.

8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

Confirm that the appropriate level of Threatened and Endangered Species review, surveys, and coordination and any required consultation, conformance, or concurrence from the U.S. Fish and Wildlife Service has been received indicating that impacts would not be significant. If applicable confirm that coordination with the Utah Division of Wildlife Resources has been completed.

9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

Examples include Migratory Bird Treaty Act, Fish and Wildlife Coordination Act, county ordinances, and state statutes. Include or reference the results of coordination and consultation with the appropriate agencies and officials indicating that the law would not be violated.

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

State whether such populations are present and whether they would receive disproportionately high and adverse human health or environmental effects. State whether health or environmental statutes would be compromised. The Environmental Protection Agency has developed guidance on addressing environmental justice issues (www.epa.gov).

11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

Consultation with tribes regarding Indian sacred sites must take place.

12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

Introduction as well as spread within the area must be considered.

Review Confirmation: The Categorical Exclusion Review Record must be signed by each assigned specialist to indicate concurrence with the extraordinary circumstances determination rationale. Since the CX extraordinary circumstances largely address the resources and issues covered by supplemental authorities (Appendix 1 H-1790-1), these elements are listed in the review record for sign-off. If “other concerns are relevant, they may be added by resource specialists for sign-off, indicating that consideration was given to the concern. Any outside interests consulted, for example grazing permittees or other government agencies, should be noted. The Environmental Coordinator must also sign the completed form, ensuring that the action is in conformance with the land use plan and confirming that it meets all CX requirements.

Approval and Decision: A separate decision document must be prepared for the action covered by the CX. Include the appropriate protest or appeal provision language.

The OEPC ESMO3-2 requires offices using Departmental Categorical Exclusions (k) and (l) in 43 CFR Part 46.210 (previously 1.12 and 1.13 in 516 DM 2, Appendix 2) regarding hazardous fuels reduction and post-fire rehabilitation actions (see Appendix 1 of this Guidebook, “Departmental Categorical Exclusions”) to prepare a “Decision Memorandum” documenting the use of the categorical exclusion and documenting the Authorized Officer’s decision to implement the proposed project. IM-WO-2003-221 provides a template for preparing a decision memorandum of this kind. The template is attached to this Guidebook as Appendix 6.

For use of Energy Policy Act of 2005 Section 390 Categorical Exclusions, use the review and documentation form provided in Appendix 7 of this Guidebook.

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CX NOT ESTABLISHED BY STATUTE TEMPLATE
CATEGORICAL EXCLUSION DOCUMENTATION FORMAT WHEN
USING CATEGORICAL EXCLUSIONS NOT ESTABLISHED BY
STATUTE

***NOTE:** Follow the italicized instructions in the rationale boxes then delete this and all italicized instructions. To delete the text boxes, place the cursor in the text box, click the left mouse button, move the cursor to near the upper center line circle of the box; when the crossing arrows appear click the left mouse button to highlight the box and delete the box by pressing delete or clicking on edit, then cut.*

A. Background

BLM Office: _____ Lease/Serial/Case File No: _____

Proposed Action Title/Type: _____

Location of Proposed Action: _____

Description of Proposed Action: _____

B. Land Use Plan Conformance

Land Use Plan Name: _____ Date Approved/Amended: _____

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

(Specify results of Land Use Plan conformance review. Does the plan specifically provide for the action or, if not, is the action consistent with the terms, conditions, and decisions of the approved plan? The following information must be provided:

- *Land Use Plan(s) name and date*
- *Conformance review results, identifying and stating specific decision*
- *If the plan does not specifically mention the action, explain how the action is consistent with plan objectives, terms and conditions)*

Insert any pertinent design features incorporated into the project design, or relevant situations discussed during project design,

And/Or

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

C. Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 43 CFR Part 46.210 _____

[Insert appropriate CX number and text, or a paraphrase of the text] or 516 DM 11.9, _____ [Insert appropriate CX number and text, or a paraphrase of the text].

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 43 CFR Part 46.215 apply.

I considered

Insert any pertinent design features incorporated into the project design, or relevant situations discussed during project design, and explain why there is no potential for significant impacts.

D: Signature

Authorizing Official: _____ Date: _____
(Name)
(Title)

Contact Person

For additional information concerning this CX review, contact

Insert contact name, title, office name, mailing address, and telephone number.

Note: A separate decision document must be prepared for the action covered by the CX. Include appropriate protest or appeal provision language.

Attachments

Insert as necessary. If there are no attachments, then delete this subheading.

Categorical Exclusion Review Record

Resource	Yes/No*	Assigned Specialist Signature	Date
Air Quality			
Areas of Critical Environmental Concern			
Cultural Resources			
Environmental Justice			
Farm Lands (prime or unique)			
Floodplains			
Invasive Species/Noxious Weeds			
Migratory Birds			
Native American Religious Concerns			
Threatened, Endangered, or Candidate Species			
Wastes (hazardous or solid)			
Water Resource/Quality (drinking or ground)			
Wetlands / Riparian Zones			
Wild and Scenic Rivers			
Wilderness			
Other:			

*Extraordinary Circumstances apply.

Environmental Coordinator_____ Date: _____

Each item of the review record should be completed by the assigned resource specialist. The resource listing within the Review Record may be modified. The Team Leader, NEPA Coordinator or Authorized Officer may sign the review record when they are acting as a specialist.

By Utah Policy this checklist must be prepared for each CX and attached to the CX documentation form.

ATTACHMENTS

Insert as necessary. If there are no attachments, then delete this subheading.

Extraordinary Circumstances to Categorical Exclusions

This form is optional. However, the Extraordinary Circumstances review should be documented using this review form when actions are controversial, complex or likely to be challenged. When used, this form can be attached to the CX documentation form. An Extraordinary Circumstances review is not necessary for Statutory CXs under the Energy Policy Act of 2005.

Follow the italicized instructions in the rationale boxes then delete this and all italicized instructions. To delete the text boxes, place the cursor in the text box, click the left mouse button, move the cursor to near the upper center line circle of the box; when the crossing arrows appear click the left mouse button to highlight the box and delete the box by pressing delete or clicking on edit, then cut.

Exceptions to Categorical Exclusion Documentation

The action has been reviewed to determine if any of the extraordinary circumstances (43 CFR 46.215) apply. The project would:

Extraordinary Circumstances		
1. Have significant impacts on public health or safety.		
Yes	No	Rationale: Explain why the project would not have significant impacts on public health and safety by describing how the action is designed or planned to keep impacts to a minimum and not impair public health or safety.
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
Yes	No	<p>Rationale: Identify if any of the above concerns are present in the impact area. Demonstrate how impacts would or would not be significant. Specify Areas of Critical Environmental Concern, Wilderness Study Areas, Monuments, and other areas with special designation. BLM shall determine whether a proposed action will occur in a floodplain or wetland area. If an action would significantly impact a floodplain or wetland area, this extraordinary circumstance would apply and alternatives must be considered.</p> <p><i>Note: CXs are not appropriate for actions within a Wilderness Study Area (per the Wilderness Interim Management Policy) or a Wilderness Area. Actions within ACECs, Wild and Scenic Rivers, Monuments, and other "special designations" may still be permitted as long as the objectives of the special designations are met.</i></p>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		

Extraordinary Circumstances		
Yes	No	Rationale: <i>Controversy over environmental effects pertains specifically to disagreement over the nature of the impacts among those with special expertise. Controversy does not reflect the level of public concern, support or opposition for an action. Explain whether the impacts of the action are well-known and demonstrated in other projects that have been implemented and monitored. Cite monitoring reports done for similar projects and the conclusions of the reports.</i>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	No	Rationale: <i>Categorically excluded actions generally have very predictable consequences well established as insignificant. If an impact of an action cannot be predicted due to varying circumstances and has potential to be significant, additional analysis would be necessary.</i>
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	No	Rationale: <i>Explain whether the action is connected to another action that would require further environmental analysis or if it would set a precedent for future actions that would normally require environmental analysis. See the scoping section of this Guidebook for a definition and explanation of connected actions.</i>
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No	Rationale: <i>See CFR 1508.7 and the scoping section of this Guidebook for a discussion of cumulative actions and impacts.</i>
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.		
Yes	No	Rationale: <i>Confirm that cultural surveys have been completed; the appropriate data bases have been reviewed; and appropriate concurrence from SHPO and tribes have been received indicating that significant impacts are not expected.</i>
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		
Yes	No	Rationale: <i>Confirm that the appropriate level of Threatened and Endangered Species review, surveys, and coordination and any required consultation, conformance, or concurrence from the U.S. Fish and Wildlife Service has been received indicating that impacts would not be significant. If applicable confirm that coordination with the Utah Division of Wildlife Resources has been completed.</i>

Extraordinary Circumstances		
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No	Rationale: <i>Examples include Migratory Bird Treaty Act, Fish and Wildlife Coordination Act, county ordinances, and state statutes. Include or reference the results of coordination and consultation with the appropriate agencies and officials indicating that the law would not be violated.</i>
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No	Rationale: <i>State whether such populations are present and whether they would receive disproportionately high and adverse human health or environmental effects. State whether health or environmental statutes would be compromised. The Environmental Protection Agency has developed guidance on addressing environmental justice issues (www.epa.gov).</i>
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes	No	Rationale: <i>Consultation with tribes regarding Indian sacred sites must take place.</i>
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes	No	Rationale: <i>Introduction as well as spread within the area must be considered.</i>

CHAPTER 7

DETERMINATION OF NEPA ADEQUACY

A Determination of NEPA Adequacy (DNA) may be used for a proposed action when the following conditions are met: (A) the proposed action is adequately covered by (i.e., is within the scope of and analyzed in) relevant existing analyses, data, and records; and (B) there are no new circumstances, new information, or unanticipated or unanalyzed environmental impacts that warrant new or supplemental analysis. This is further explained in the NEPA Handbook (H-1790-1 at Section 5.1 and Appendix 8).

If the Responsible Official determines that existing NEPA documents adequately analyze the effects of the proposed action, this determination, prepared in a DNA worksheet provides the administrative record support, and serves as an interim step in the BLM's internal decision-making process. The DNA is intended to evaluate the coverage of existing documents and the significance of new information, but does not itself provide NEPA analysis. If the Responsible Official concludes that the proposed action(s) warrant additional review, information from the DNA worksheet may be used to facilitate the preparation of the appropriate level of NEPA analysis. **Preparation of the DNA Worksheet is not always necessary before preparation of an EA.** However, the worksheet should be prepared in those cases where it is not clear whether existing analysis is adequate.

The DNA form may also be used as a periodic NEPA supplementation review to determine if updates of existing decisions and NEPA analysis are needed for previously approved and ongoing actions. There is no specific required time frame for review of existing decisions.

Responses should be substantive and detailed and contain specific citations to the existing EA or EIS. If you answer "yes" to all of the questions in Section D of the Worksheet, additional analysis will not be necessary. If you answer "no" to any of the above questions, a new EA or EIS must be prepared (516 DM 11.6). If a DNA is not appropriate, it may still be appropriate to tier to or incorporate by reference from the existing EA or EIS or supplement the existing EIS (provided that the Federal action has not yet been implemented) (H-1790-1.Sections 5.2 or 5.3).

A DNA Worksheet is shown below.

In making determinations on the adequacy of existing NEPA documents, you **must** establish an administrative record that clearly demonstrates that you took a "hard look" at whether new circumstances, new information, or environmental impacts not previously anticipated or analyzed warrant new analysis or supplementation of existing NEPA documents. The documentation can be concise but must adequately address the criteria in the worksheet. Review the relevant parts of the existing record, including terms, conditions, and mitigation measures, in the context of existing on-the-ground conditions. Staff or specialist reports can be prepared and incorporated as an Attachment to the Worksheet.

Age by itself does not necessarily indicate that existing documentation is invalid (Coker v. Army, 941 F 2d 1306 (1991)); however, the age of the documents reviewed may indicate that information or circumstances have changed significantly. In this finding, new information or changes in circumstances are considered significant if the body of existing NEPA analysis fails to analyze a new issue and if analysis of the issue would present a seriously different

picture of the environmental consequences of the proposed action. The key is not whether the area has undergone significant change, but whether the proposed action will have a significant impact on the environment not previously evaluated and considered – whether new information so alters the project’s character that a new “hard look” at the environmental consequences is necessary.

You must complete a review of existing NEPA documentation (see 40 CFR 1502.9(c), BLM H-1790-1, Chapter 5 and DM 516 11.6) through an interdisciplinary (ID) process and complete a DNA that considers the affected values or resources. Chapter 4 of this Guidebook provides further guidance on the ID process. A signed ID Team Checklist must also be provided, (see Chapter 5 of this Guidebook) demonstrating that the ID team has considered whether existing analysis is adequate or there is new information or circumstances that would require additional analysis of impacts on the human environment.

Because you must first review the land use plan (LUP) to insure that the current proposed action is in conformance with the plan, the worksheet provides for documentation of the results of the LUP conformance review. If you determine that the current proposed action does not conform to the plan, you may (1) reject the proposal; (2) modify the proposal to conform to the LUP; or (3) complete appropriate NEPA compliance and plan amendments before proceeding with the proposed action.

The signed conclusion or determination of NEPA adequacy in the worksheet is an interim step in BLM’s internal analysis process and does not constitute an appealable decision. The authorization (eg. right-of-way, Special Recreation Permit, oil and gas lease etc.) may be issued under the guidance for the applicable resource or use program following the preparation of the DNA. As per H-1790-1, Section 5.1.4, if the new proposed action is a feature of the selected alternative analyzed in an existing EA, you do not need to prepare a new FONSI because the existing FONSI already made the finding that the selected alternative would have no significant effects. However, you must prepare a new FONSI before reaching a decision if the new proposed action is:

- 1 essentially similar to, but not specifically a feature of, the selected alternative.
- 2 a feature of, or essentially similar to, an alternative that was analyzed in the EA or EIS, but was not selected.

The DNA Worksheet is not a decision document. For a new action for which a DNA has been prepared, you usually must prepare decision documentation consistent with program specific guidance. The authorizations may be protested or appealed under the Code of Federal Regulations (CFR) for the applicable program.

The DNA form may also be used as a NEPA supplementation review to determine if updates of existing decisions and NEPA analysis are needed for previously approved and ongoing actions. In this case, new proposals and decisions would be necessary only if existing documents are determined to be inadequate. If existing NEPA is determined to be adequate, the completed DNA form should be added to the case file for the activity to demonstrate that new analysis and decisions were not required at the time of the review.

**DNA TEMPLATE
WORKSHEET
DETERMINATION OF NEPA ADEQUACY**

U.S. Department of the Interior
Utah Bureau of Land Management

The signed CONCLUSION at the end of this worksheet is part of an interim step in the BLM's internal analysis process and does not constitute an appealable decision; however, it constitutes an administrative record to be provided as evidence in protest, appeals and legal procedures.

*This worksheet is to be completed consistent with guidance provided in instructional text boxes on the worksheet. Follow the italicized instructions in this text box and then delete this text box. Instructions to assist in the preparation of the DNA worksheet are provided in text boxes in this template. To prepare the DNA, insert text **outside** of the instructional textboxes while following the instructions. After preparation of the DNA sections, delete these text boxes. To delete the text boxes, place the cursor in the text box, click the left mouse button, move the cursor to near the upper center line circle of the box; when the crossing arrows appear click the left mouse button to highlight the box and delete the box by pressing delete or clicking on edit, then cut.*

OFFICE:

TRACKING NUMBER:

CASEFILE/PROJECT NUMBER:

PROPOSED ACTION TITLE/TYPE:

LOCATION/LEGAL DESCRIPTION:

APPLICANT (if any):

A. Description of the Proposed Action and Any Applicable Mitigation Measures

Provide only a brief description of the proposed action and its location on the worksheet. A map or detailed information that helps describe the project may be referenced as part of the project file or attached at the end of the worksheet. In the detailed description include standard operating procedures, specifications, requirements, and map).

B. Land Use Plan (LUP) Conformance

LUP Name*	Date Approved
Other document	Date Approved
Other document	Date Approved

*List applicable LUPs (for example, resource management plans; activity, project, management or program plans; or applicable amendments thereto).

The proposed action is in conformance with the applicable LUPs because it is specifically provided for in the following LUP decisions:

(and/or)

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decisions (objectives, terms, and conditions):

C. Identify the applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.

List by name and date all applicable NEPA documents that cover the proposed action.

List by name and date other documentation relevant to the proposed action (e.g. biological assessment, biological opinion, watershed assessment, allotment evaluation, and monitoring report).

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

☐ Yes
☐ No

Documentation of answer and explanation:

Explain if, whether and how the existing documents analyzed the proposed action (include page numbers). If there are differences between the actions included in existing documents and the proposed action, explain why they are or are not considered to be substantial.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action (or existing proposed action), given current environmental concerns, interests, and resource values?

☐ Yes
☐ No

Documentation of answer and explanation:

Explain whether the alternatives that were analyzed in the existing NEPA documents and associated records constitute appropriate alternatives with respect to the current proposed action. Identify if, and how current issues and concerns were addressed within the range of alternatives in existing NEPA documents. If new alternatives are being raised by the public to address current issues and concerns, explain why they should or should not be further analyzed.

3. Is existing analysis adequate in light of any new information or circumstances (such as, rangeland health standards assessment; recent endangered species listings, updated list of BLM sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

☐ Yes
☐ No

Documentation of answer and explanation:

If new information or new circumstances are applicable, you need to demonstrate whether they are pertinent and worthy of further analysis; or irrelevant and insignificant as applied to the existing analysis of the proposed action. It should not be assumed that new information is automatically “significant.” New information and circumstances are significant if the information conveys a seriously different picture of the affected environment and environmental impacts than those addressed in existing NEPA documents. See the guidelines at the end of the worksheet for specific examples.

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

☐ Yes
☐ No

Documentation of answer and explanation:

Review the impact analysis in the existing NEPA document(s). Explain how the direct and indirect impacts of the proposed action are or are not analyzed in the existing NEPA documents. Explain how these impacts would, or would not, differ from those identified in the existing NEPA document. Consider the effect new information or circumstances may have on the environmental impacts predicted in the existing NEPA document(s). Consider whether the impacts related to the current proposed action are analyzed in sufficient site-specific detail for the proposed action. A plan level decision may be analyzed at a more general level than a site-specific project or implementation level decision. Maps and text included in plan level documents may allow site-specific identification of impacts from programmatic or project level proposals. Would the current proposed action, if implemented, change the cumulative impact analysis? Consider the impact analysis in existing NEPA document(s), the effects of relevant activities that have been implemented or projected since existing NEPA documents were completed, and the effects of the current proposed action.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

___ Yes
___ No

Documentation of answer and explanation:

Explain how the nature of public involvement in previous NEPA documents is inadequate or remains in compliance with NEPA public involvement requirements. Consider public involvement in light of new conditions, information, and issues. Identify any postings or public notices that have been made for the proposal being considered, and the level of public interest that has been expressed.

E. Persons/Agencies/BLM Staff Consulted:

<u>Name</u>	<u>Title</u>	<u>Resource Represented</u>

Note: Refer to the EA/EIS for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

CONCLUSION *(If you found that one or more of these criteria is not met, then you cannot conclude that the NEPA documentation fully covers the proposed action).*

Plan Conformance:

- ☐ This proposal conforms to the applicable land use plan.
- ☐ This proposal does not conform to the applicable land use plan

Determination of NEPA Adequacy

- ☐ Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of the NEPA.
- ☐ The existing NEPA documentation does not fully cover the proposed action. Additional NEPA documentation is needed if the project is to be further considered.

Signature of Project Lead

Date

Signature of NEPA Coordinator

Date

Signature of the Responsible Official

Date

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.

If the DNA is being used as a NEPA supplementation review for a previously approved and ongoing action, and NEPA is determined to be adequate, no further analysis or decision is required. If NEPA is determined to be inadequate for a previously approved and ongoing action, a proposal and EA or EIS should be initiated.

ATTACHMENTS:

Attach the ID Team Checklist. Other attachments are optional. If lengthy discussions or supplemental information is needed to support the explanations provided under Criteria 1-5 the information may be referenced on the DNA form and attached to the form under this heading. If there are no attachments, then delete the heading.

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CHAPTER 8

ENVIRONMENTAL ASSESSMENTS

Introduction

An environmental assessment (EA) may be prepared for any action prior to decision-making. However, if the proposed action meets the requirements of a CX or DNA, an EA may not be necessary. The EA must provide sufficient information and analysis of the impact(s) on the quality of the human environment to determine whether to prepare either an EIS or a finding of no significant impact (FONSI). The EA allows for specialist review of affected resources, even if impacts are not significant, and provides a mechanism for identifying and developing appropriate mitigation measures. The EA and the related FONSI/Decision Record (DR) are available to the public and serve as documentation of NEPA compliance.

The purposes of environmental assessments are:

- To determine whether a proposed action would cause significant impacts to the quality of the human environment and, therefore, mandate the preparation of an EIS. The “human environment” is interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment, as well as the social and economic component of the human environment.
- To ensure that the requirements of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations are met, in addition to following Departmental, Bureau, and field office policy.
- To provide decision-makers with an understanding of what environmental consequences would occur if an action were implemented, while disclosing such consequences to the public.
- To recommend mitigation and monitoring for identified impacts.
- To provide for public review and participation in the analysis process, as appropriate to the level of analysis and public interest.

General Procedures for Completing an Environmental Assessment

Some of these steps may be combined for a simple and non-controversial EA.

1. Define the Proposed Action; include project map(s).
2. Identify the Purpose and Need.
3. Determine conformance with existing land use plan.
4. Obtain a NEPA log number from the NEPA / Environmental Coordinator or NEPA Log.
5. Provide public notification - post on ENBB and in all public areas of Field Office.
6. Complete Interdisciplinary Team review (internal scoping) using ID Team checklist.
7. Conduct IDT meeting(s) to identify issues, recognize data needs, develop and refine alternatives, etc.
8. Consider external scoping needs for public involvement, consultation, and coordination.
9. Conduct external scoping (if necessary).
10. Determine staffing, budget needs and proposed time schedule.

11. Resource specialists provide write-up to EA Team Leader.
12. Team Leader prepares initial document and routes for internal review.
13. IDT reviews and comments on preliminary EA.
14. Preliminary EA is edited by Team Leader to incorporate changes from IDT.
15. Revised EA routed to IDT as necessary to review.
16. NEPA / Environmental Coordinator reviews EA and FONSI/Decision Record for NEPA compliance and document readability.
17. Team Leader incorporates comments from NEPA / Environmental Coordinator.
18. If the Authorized Officer deems necessary, EA is sent out for public comment with an unsigned FONSI (See Chapter 2 for guidance on Public Involvement).
19. IDT reviews and incorporates relevant public comments.
20. Team Leader finalizes EA/FONSI/DR.
21. NEPA/Environmental Coordinator completes final review and submits to Authorized Officer for signature.
22. NEPA/Environmental Coordinator or Team Leader ensures posting of Decision date on BLM ENBB website.
23. The Team Leader, in coordination with the NEPA / Environmental Coordinator, is responsible for distributing the completed EA to those requesting a copy.
24. Team Leader is responsible for compiling the administrative NEPA record associated with the project. (See Chapter 11 for details on Administrative Record.).

Choosing between the short-form and long-form EA templates:

The length of an EA is determined by the number and complexity of the issues and alternatives which are identified through proper scoping. A short- and long-form EA template are provided below. Guidance/direction information (in italics) and boxes containing example language are provided in the templates for the benefit of the preparers.

The short-form EA template is optional and may be used when:

- An EA is required.
- The ID Team Checklist (see Chapter 5 of this Guidebook) identifies that there are only a few issues.
- The proposed action and no action are the only alternatives.
- All known mitigation is included in the proposed action.
- The degree of public interest is low.
- There is a low probability of legal challenge.

The long-form EA template should be used when:

- The ID Team Checklist identifies several issues that require detailed analysis.
- Analysis of reasonable alternatives to the proposed and no action alternatives is required.
- Mitigation measures not included in the proposed action must be analyzed.
- There is a high level of public interest.
- There is a high probability of legal challenge.

EA SHORT FORM TEMPLATE

United States Department of the Interior Bureau of Land Management

Environmental Assessment (*insert NEPA log number*)
Month Year

Project Title

(*Use a full, descriptive title for EA that reflects type/location of project*)

Location:

Applicant/Address:

(*Follow italicized instructions and then delete this text box*)

This format may be used ONLY when: an EA is required; the ID Team Checklist identifies that there are only a few issues; the proposed action and no action are the only alternatives; all known mitigation is included in the proposed action; and/or the degree of public interest is low and there is a low probability of legal challenge.

*Instructions and examples to assist in the preparation of the EA are provided in text boxes in this template. To prepare the EA, insert text **outside** of the instructional textboxes while following the instructions provided and using example language as appropriate. To move example language outside of the text boxes use the select, edit, cut and paste functions. After preparation of the EA sections, delete these text boxes. To delete the text boxes, place the curser in the text box, click the left mouse button, move the curser to near the upper center line circle of the box; when the crossing arrows appear click the left mouse button to highlight the box and delete the box by pressing delete or clicking on edit, then cut).*

This template is intended to be somewhat flexible. Individual sections of the EA template may be modified in accordance with program specific guidance.

Field Office:
Address:
City, Utah ZIP Code:
Phone:
Fax:

Project Title
(insert NEPA log number)

CHAPTER 1
INTRODUCTION AND NEED FOR THE PROPOSED ACTION

INTRODUCTION

*Briefly profile the **proposed action** by stating who wants to do what, where, and when. Provide enough information for the public and the decision maker to understand the proposal. This should be done very briefly and succinctly. Give location of proposal (legal, general description, and map, as appropriate). Identify any links the proposed action may have to other federal, state, or local projects, if any. Maps, photographs, etc. may be attached as plates or figures.*

EXAMPLE: The Bureau of Land Management (BLM) proposes to plug and abandon two artesian water wells located in Cainville Wash, T., R., section, by stopping flow and filling the wells with cement. If approved, plugging operations would commence in October 2003. See attached location map (Figure I).

PURPOSE AND NEED FOR THE PROPOSED ACTION

*Summarize the **need for** the proposed action. Explain why this project needs to be accomplished, or what is driving the proposal. Focus on resource problems or, as appropriate, resource opportunities. If the need for the proposed action is to respond to BLM policy or legal mandates, state the policy and reference it. When appropriate, reference the applicable land use plan and its relevant objectives.*

*List the **BLM objectives or reasons for considering a non-bureau proposal**. Give the source of each objective (law, regulation, agreement, agency mission, prior NEPA document, etc.). As appropriate, tell what indicator (component of the environment) would be used to assess each objective, such as the number of users to be accommodated, or minimum flows maintained. Avoid listing as objectives the project actions being proposed. A sound objective should allow different options or alternatives to achieve the objective. Also describe BLM's authorities and purposes for reviewing the proposed action. What is the government's objective for considering the proposal? These will form the criteria and rationale for the decision that will follow the EA process.*

CONFORMANCE WITH BLM LAND USE PLAN(S)

Specify results of the Land Use Plan conformance review. Does the plan specifically identify a resource management action? If not, is the action consistent with the terms, conditions, and decisions of the approved plan? The following information must be provided:

- *Land Use Plan Name and its approval date;*
- *Conformance review results, identifying and stating the specific decision(s);*
- *If the plan does not specifically identify the action, explain how the action would be consistent with plan objectives, terms and/or conditions; or*
- *If the proposal is not in conformance with the plan, state that a new land use plan amendment and decision would be necessary to accommodate the action and that BLM would amend the plan before implementing the decision.*

For additional information, refer to BLM Handbook H-1790-1 section 8.3.4.3.

RELATIONSHIPS TO STATUTES, REGULATIONS AND OTHER PLANS

- *State whether or not the action is consistent with federal laws and regulations, provide appropriate citation*
- *Specify consistency with Rangeland Health Standards and Guidelines and Native American Trust Resource policies*
- *List all known federal, state, and local approvals and permits required, identified by type and entity. For additional information, refer to BLM Handbook 1790-1 section 8.3.4.3.*
- *State whether the proposed action and alternatives are consistent with other plans, programs, and policies of affiliated Tribes, other federal agencies, state, and local governments to the extent practical within federal law, regulation, and policy*
- *List any other EIS/EAs that influence the scope of this document (e.g., tiering). For additional information refer to 43 CFR 46.120, 46.135, 46.140, and BLM Handbook H-1790-1 section 6.5.*

CHAPTER 2 DESCRIPTION OF ALTERNATIVES

INTRODUCTION

- *State that this EA focuses on the Proposed and No Action alternatives.*
- *Identify other action alternatives that were considered but eliminated from detailed analysis with a brief explanation of why they need not be considered further. If there are no issues to analyze in detail, note that “since no potential impacts have been identified, there are no issues to resolve through additional mitigation or other action alternatives”.*
- *State that “The No Action alternative is considered and analyzed to provide a baseline for comparison of the impacts of the proposed action.”*

For additional information refer to 43 CFR 46.310(b).

NOTE: *If ID Team Checklist indicates that there are complex or controversial potential impacts which need to be addressed, it is Utah BLM policy that this format may not be used.*

PROPOSED ACTION

Identify the applicant, if not BLM. Include quantifiable information (e.g., location, extent, timing, duration, acres, workforce, etc.). Include a description of the features of the proposed action in sufficient detail to facilitate the analysis in ID Team Checklist and Chapter 4. Outline applicant committed environmental protection measures and BLM Standard Operating procedures or measures that apply. For additional information refer to BLM Handbook H-1790-1 section 6.5.

Caution: *Do not change the proposed action without first consulting with and obtaining **written** agreement from the applicant, if not BLM. If further information is needed from the applicant before the proposal can be adequately described, document the deficiency and request the applicant provide the necessary information.*

NO ACTION

For non-Bureau proposals or new BLM proposals define the No Action Alternative as denial of the application. For continuation of a current BLM program such as re-issuance of a grazing permit define the No Action Alternative as continuation of the current program.

*Discuss constraints on selection of the alternative but **do not** state that “BLM could not select this alternative”. Describe what the applicant would do if the proposal were not granted? Describe the present management activities and change agents, that would continue if No Action were selected, but **do not** analyze the consequences of No Action in this Chapter, e.g. **do not** say that the need for the proposal would not be met. For additional information refer to 43 CFR 46.310(b), and BLM Handbook H-1790-1 sections 6.6.2 and 8.3.4.2.*

Example: The No Action Alternative would be to deny the APD as proposed. With this alternative BLM would not approve ___well and the applicant would not be allowed to drill the proposed exploratory well. BLM’s authority to implement the No Action Alternative may be limited because oil and gas leases allow drilling in the lease area subject to the stipulations of the specific lease agreement. BLM can deny the APD if the proposal would violate lease stipulations, applicable laws and /or regulations and also can impose restrictions to prevent undue or unnecessary environmental degradation. If BLM were to deny the APD, the applicant could attempt to reverse BLM’s decision through administrative appeals, seek to exchange its lease for leases in other locations or seek compensation from the Federal government. The outcome of these actions is beyond the scope of this EA as they cannot be projected or meaningfully analyzed at this time.

CHAPTER 3 AFFECTED ENVIRONMENT

INTRODUCTION AND GENERAL SETTING

State that: The Interdisciplinary Team Checklist provides a brief description of the affected environment. For additional information refer to 43 CFR 46.125 and BLM Handbook H-1790-1 sections 6.7.1, 6.7.2, and 8.3.5. Make a negative declaration on the impacts to resources that were identified by the public and ID team as part of scoping but were eliminated from further analysis.

Example

The affected environment was considered and analyzed by an interdisciplinary team as documented in the Interdisciplinary Team Checklist. The checklist indicates which resources of concern are either not present in the project area or would not be impacted to a degree that requires detailed analysis. Resources which could be impacted to a level requiring further analysis are described in Chapter 3 and impacts on these resources are analyzed in Chapter 4 below.

Briefly describe the environmental setting of the project area, including physiographic province, general climate, major vegetation types, elevation, historical uses, precipitation, and any other general information that helps the reader understand the area. A site specific map and photographs should be considered.

Resource A:

*Describe the affected environment for only those resources identified as “PI” in the ID Team Checklist. Do **not** present resources that have been assigned a “NP” or “NI”. Describe the affected environment in terms of the same components of the affected environment (indicators) and units of measure (quantitative or qualitative units) as utilized and presented in the analysis in Chapter 4.*

For example, if the potentially affected resource is wildlife and the issue is impacts on mule deer winter range describe the indicators: present location, extent, condition, and use etc., of the mule deer winter range in Chapter 3, and then analyze how these indicators would change in Chapter 4. Describe and analyze the same indicators in the same units of measure, i.e. acres, poor or good condition, deer days use per acre, in both chapters.

Resource B: (repeat as necessary)

**CHAPTER 4
ENVIRONMENTAL IMPACTS**

DIRECT AND INDIRECT IMPACTS

If tiering is applicable, explain how the proposed action is tiered to existing decisions and incorporate pertinent information and analysis by reference. Explain the information tiered to for each resource. Explain the basic conclusions of previous analysis and explain how the reader can obtain the applicable documents and analysis.

Example

This EA is tiered to the _____ District Oil and Gas Leasing EAR prepared in 19__ and the Supplemental EA for Oil and Gas leasing, _____ District, EA No. UT-000-88-69 prepared in 19__ and/or ____ RMP. The EAR or EIS analyzed the environmental consequences of oil and gas leasing in the ____ District and established four leasing categories that required appropriate lease stipulations for protection of the environment. The Supplemental EA, prepared to analyze cumulative impacts of oil and gas leasing based on a reasonably foreseeable development scenario, estimated that exploratory wells would continue to be drilled in the District at the rate of about 3 wells per year and that the success rate for finding commercial quantities would be low, no more than 10 percent based on the average success rates for wildcat wells in the United States. The Supplemental EA projected a total of 310 acres of surface disturbance from oil and gas wells and activities occurring over 10 years and concluded that overall, the cumulative impacts from oil and gas leasing would not be significant. Since 1988, three oil and gas exploration wells have been drilled on public lands in the _____ District disturbing approximately 12 acres. The current rate of drilling, extent of disturbance and magnitude of impacts are within the projection made in the Supplemental EA. The EAR and Supplemental EA are available for review at the local BLM offices in ____ and ____, Utah.

PROPOSED ACTION

State that, This section analyzes the impacts of the proposed action to those potentially impacting resources described in the affected environment Chapter 3, above.

Resource A:

Describe the anticipated impacts to each resource. Do not use opinion statements, such as adverse, negative or positive without providing context and perspective. Describe the change which would occur to the affected environment using the same indicators and units of measure as presented in Chapter 3. For additional information refer to 43 CFR 46.310 (e), (f), and (g), and BLM Handbook H-1790-1 sections 6.8 and 8.3.6.

Resource B: (repeat as necessary)

NO ACTION

When the No Action Alternative is to deny the proposed action:

- *State that no action would not meet the need for proposed action and if appropriate briefly describe the benefits that would be forgone.*
- *State that there would be no environmental impacts from the proposed action because it would be denied.*
- *If there are actions that would affect the human environment in the project or impact areas (this includes ongoing or reasonably foreseeable), acknowledge these actions and briefly describe the types of impacts that would occur even though the proposal would be denied.*

When the No Action Alternative is to continue an activity as in the past:

- *Refer to the No Action alternative as the analysis of the impacts of continuing current management. State in the conclusion that there would be no impacts to resources as documented in ID Team Checklist, other than those identified as potentially impacted. Summarize the impacts of no action on the potentially affected resources.*

Resource A:

Describe the anticipated impacts to each resource. Do not use opinion statements, such as adverse, negative or positive without providing context and perspective. Describe the change which would occur to the affected environment using the same indicators and units of measure as presented in Chapter 3. For additional information refer to BLM Handbook H-1790-1 section 6.8.

Resource B: (repeat as necessary)

CUMULATIVE IMPACTS

If there were no resources analyzed state: Because there would be no direct or indirect environmental impacts from the proposed or no action alternatives, there would be no cumulative impacts.

The purpose of the cumulative effects section is to describe the interaction among the effects of the proposed action and these various past, present, and reasonably foreseeable actions. This interaction may be:

- *Additive: the effects of the actions add together to make up the cumulative effect.*
- *Countervailing: the effects of some actions balance or mitigate the effects of other actions.*
- *Synergistic: the effects of the actions together is greater than the sum of their individual effects.*

Refer to H-1790-section 6.8.3 for additional discussion on cumulative impacts.

The following is a basic cumulative impacts outline. The cumulative effects analysis will usually vary by resource. Remember to quantify impacts whenever possible.

- 1. Identify the resource being impacted.*
- 2. Identify the Cumulative Impact Area for the subject resource.*
- 3. Describe briefly why the Cumulative Impact Area is applicable.*
- 4. As appropriate for the subject resource, incorporate by reference cumulative analysis (including past, present, and reasonably foreseeable actions and their direct or indirect impacts) from existing documents and state why the referenced material is relevant.*
- 5. List or describe any additional past, present, and reasonably foreseeable actions ongoing in the Cumulative Impact Area beyond those previously analyzed in the documents referenced in step 4 that affect the subject resource.*
- 6. Briefly describe any additional direct and indirect impacts to the subject resource resulting from the past, present and reasonably foreseeable actions which were not previously analyzed and incorporated by reference.*
- 7. Briefly describe what the action alternative(s) will add to the past, present, and reasonably foreseeable impacts*
- 8. If the no action alternative is a continuation of the existing situation, briefly describe what the no action will add to the cumulative impacts. If the no action alternative is to not approve the activity state:*
“Because the No Action Alternative will not result in any direct or indirect impacts, it will not result in an accumulation of impacts.

Examples are included on the following page.

Example 1: Livestock Grazing

The CIAA for livestock grazing is the Olsen AMP Grazing Allotment, which is the only allotment affected by the proposed action or alternatives. Cumulative impacts livestock grazing would include the loss of AUMs for the life of the disturbance. In the cumulative impact area, past, present, and reasonably foreseeable activities include oil and gas activities, recreation activities (including OHV use), and prescribed burns. The incremental impacts of all but the oil and gas activities are impossible to quantify. Table 5-6 below, displays the past and reasonably foreseeable impact of oil and gas development on AUMs in the Olsen AMP grazing allotment.

Table 5-6. AUMs Lost from Past and Reasonable Foreseeable Oil and Gas Developments in the Olsen AMP Grazing Allotment

	Total Allotment AUMs	Past Action AUMs Lost	RFD AUMs Lost	AUMs Lost per Alternative	Total Reasonably Foreseeable AUMs Lost	% of Total Allotment AUMs Lost
Alternative A	134,307	29	97	12	138	0.1%
Alternative B	134,307	29	97	6	132	0.1%
Alternative C	134,307	29	97	6	132	0.1%
Alternative D	134,307	29	97	0	126	0.1%

In addition to loss of AUMs: increased roads within the Project Area would cumulatively contribute to difficulties in controlling livestock as more natural barriers to livestock movement are removed, and as more livestock use roads as travel routes; increased road and pipeline ROWs could contribute to changes in water flow, thereby reducing flows to livestock ponds; loss of vegetation and increased traffic and human activity in the Project Area could contribute to livestock displacement that is occurring throughout the Project Area as a result of recreational activities and other land uses. These past, present, and future construction activities, and other visual and noise impacts in the Project Area could cause livestock to move to adjacent undisturbed areas, thereby leading to additional livestock impacts on vegetation in those locations.

Example 2: Paleontological Resources

As potential impacts to paleontological resources across a geographic landscape are not additive, the cumulative impact area of analysis is the project area which covers 21,760 acres. As was disclosed in the River Bend/West Willow Creek EA (UT-080-97-049) past actions include 182 oil and gas wells within the River Bend Unit (pre-1997) resulting in 710 acres of surface disturbance. There were 301 additional wells proposed within the River Bend/West Willow Creek EA, with a total surface disturbance of 895 acres. The 4 additional wells proposed in this EA would be part of the wells conceptually approved through the 1997 EA. Future actions in the vicinity include, the River Bend Infill EA which could vertically and directionally drill 484 wells, including 128 wells previously approved under the 1997 River Bend EA, resulting in a total of 1,103 acres of disturbance. A total of 2,708 acres would be cumulatively disturbed (12 % of total land area in the Unit), which is a conservative total due to the overlapping of analyzed acres between the 1997 and ongoing River Bend EAs. Additional past, present, and reasonably foreseeable activities in the project area include some OHV use and vegetation treatment activities. The surface disturbance, if any, associated with these activities is impossible to quantify due to their dispersed nature. Paleontological surveys are conducted in areas with high potential for producing paleontological resources prior to approval of surface disturbing activities, and identified paleontological resources are avoided or collected. However, paleontological resources that are not visible on the surface could be unknowingly damaged or destroyed by construction activities. Unknown paleontological resources could be disturbed on up to 2,708 acres. The proposed action would make up 9.5 acres of the total disturbance. The no action alternative would not result in an accumulation of effects.

CHAPTER 5 PERSONS, GROUPS, AND AGENCIES CONSULTED

Even though BLM has concluded that there would be no environmental impacts from the proposed action, consultation and coordination may still be required by other laws and regulations.

Describe the public involvement and notification procedures and activities that have been followed. For example, state that notice of the proposed action and EA were placed on the Utah BLM Environmental Notification Bulletin Board (ENBB) and the date of the notice. For additional information refer to 43 CFR 46.305 and BLM Handbook H-1790-1 section 6.9.

Example: During preparation of the EA, the public was notified of the proposed action by posting on the Utah Internet Homepage on ____date. ____ have contacted the BLM in response to the notice. The process used to involve the public included _____. A public comment period was not offered because very little interest in the proposal has been expressed.

List all persons, agencies, and organizations consulted, and the purpose of such consultations. A table may be used for this purpose. Note: This applies only to those consulted whose information assisted in the preparation of the EA. For additional information refer to BLM Handbook H-1790-1 section 8.3.7.

Table 5.1. List of Persons, Agencies and Organizations Consulted

Name	Purpose & Authorities for Consultation or Coordination	Findings & Conclusions

Example: Table 5.1. List of Persons, Agencies and Organizations Consulted

(Sample wording is provided. The actual wording must be developed based on the circumstances of the proposal and results of the consultation process). For additional information refer to BLM Handbook H-1790-1 section 8.3.8.

Name	Purpose & Authorities for Consultation or Coordination	Findings & Conclusions
U.S. Fish & Wildlife Service (US FWS)	Information on Consultation, under Section 7 of the Endangered Species Act (16 USC 1531)	The Service agrees, by letter dated ____, that the proposed action may affect but would not adversely affect listed species because..... (Refer to Appendix __)
Utah State Historic Preservation Office (SHPO)	Consultation for undertakings, as required by the National Historic Preservation Act (NHPA) (16 USC 470)	SHPO has approved, by letter dated ____, that..... (Refer to Appendix __)
____Tribe	Consultation as required by the American Indian Religious Freedom Act of 1978 (42 USC 1531) and NHPA (16 USC 1531)	A meeting was held on ____ (date) to describe and discuss the concerns of the Tribe concerning the proposed action. A follow-up letter was sent and/or phone calls made on ____ (date(s)). The Tribe has responded by letter dated ____, that..... OR The Tribe has not responded identifying any concerns. Lack of response is interpreted by BLM to indicate that the Tribe has no concerns relative to the proposed action.
U.S. Army Corps of Engineers	The project would require a permit from the Corps under authority of Section 404 of the Clean Water Act (33 USC 1251)	The Corps has indicated that the project meets the nationwide permit criteria which states.....
Utah Div. of Wildlife Resources	Consult with UDWR as the agency with expertise on impacts on game species.	Data and analysis regarding big game species incorporated into Chapters 3 and 4.

List of Preparers

List all preparers, their area(s) of expertise, and the section(s) of the document they prepared. Reference the ID Team Checklist for those did not contribute to the text of the EA.

Example: BLM staff specialists who determined the affected resources for this document are listed in Appendix A. Those who contributed further analysis in the body of this EA are listed below.

If the EA is prepared for BLM by a consultant, BLM should **not** be listed as an agency consulted, but rather included in the list of preparers. This information may be presented in table format.

Table 5.2. List of Preparers

BLM Preparers

Name	Title	Responsible for the Following Section(s) of this Document

Non-BLM Preparers

Name	Title	Responsible for the Following Section(s) of this Document

Example: Table 5.2. List of Preparers

BLM Preparers

Name	Title	Responsible for the Following Section(s) of this Document
Robert Raptor	Team Leader	Technical Coordination & Quality Control
Jim Rafter	Recreation Specialist	Impact analysis for recreation, and visual resource management
Stephen McCoy	Petroleum Engineer	Impact analysis for energy mineral resources

Non-BLM Preparers (Name the Non-BLM Preparer (company name(s), contractor, etc.)

Name	Title	Responsible for the Following Section(s) of this Document
John Smith	Team Leader	Technical Coordination & Quality Control
Mike Falcon	Wildlife Biologist	Impact analysis for big game, T&E animal species
Donna Bales	Soils/Watershed Specialist	Impact analysis for watershed, water quality, and reclamation

APPENDICES

APPENDIX __

INTERDISCIPLINARY TEAM CHECKLIST

The “Interdisciplinary Team Checklist,” which is found in Chapter 5 of the Guidebook (a template of this checklist is also available) will always be included as an appendix for all Utah BLM documents. The IDT Checklist also follows the long form EA Template in this chapter.

Appendices should include information that is necessary for understanding or supporting the analysis content of the EA. This section may include appendices of any of the following, as necessary:

- *Detailed descriptions of project components necessary to support technical analysis.*
- *Topographic maps or engineering drawings, referred to in text as figures or plates.*
- *Photographs.*
- *Any visual enhancements to help the reader.*
- *Charts, graphs, figures, tables, etc.*
- *Technical reports.*
- *Conclusion of consultation correspondence including determinations/concurrence.*

APPENDIX __

(repeat as necessary)

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EA LONG FORM TEMPLATE

United States Department of the Interior Bureau of Land Management

Environmental Assessment (*insert NEPA number*)
Month, Year

Project Title
(*Use a full, descriptive title for EA that reflects type/location of project*)

Location:

Applicant/Address:

Follow the italicized instructions and then delete the instructions.

The long-form EA Template should be used when the ID Team Checklist identifies several issues that require detailed analysis; analysis of reasonable Alternatives to the proposed and no action alternatives is required; mitigation measures not included in the proposed action must be analyzed; and / or there is a high level of public interest and there is a high probability of legal challenge.

Field Office:
Address:
City, Utah ZIP Code:
Phone:
FAX:

Project Title
(insert NEPA number)

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Optional for relatively simple EAs.

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Project Title
(insert NEPA number)

Follow the italicized instructions in this text box and then delete this text box.

INSTRUCTIONS FOR USE OF THIS TEMPLATE: Instructions and examples to assist in the preparation of the EA are provided in text boxes in this template. To prepare the EA, insert text **outside** of the instructional textboxes while following the instructions provided and using example language as appropriate. To move example language outside of the text boxes use the select, edit, cut and paste functions. After preparation of the EA sections, delete these text boxes. To delete the text boxes, place the curser in the text box, click the left mouse button, move the curser to near the upper center line circle of the box; when the crossing arrows appear click the left mouse button to highlight the box and delete the box by pressing delete or clicking on edit, then cut).

This template is intended to be somewhat flexible. Individual sections of the EA template may be modified in accordance with program specific guidance.

1.0 PURPOSE AND NEED

1.1 Introduction

This Environmental Assessment (EA) has been prepared to disclose and analyze the environmental consequences of the _____ (project) as proposed by _____ (proponent's name). The EA is a site-specific analysis of potential impacts that could result with the implementation of a proposed action or alternatives to the proposed action. The EA assists the BLM in project planning and ensuring compliance with the National Environmental Policy Act (NEPA), and in making a determination as to whether any "significant" impacts could result from the analyzed actions. "Significance" is defined by NEPA and is found in regulation 40 CFR 1508.27. An EA provides evidence for determining whether to prepare an Environmental Impact Statement (EIS) or a statement of "Finding of No Significant Impact" (FONSI). If the decision maker determines that this project has "significant" impacts following the analysis in the EA, then an EIS would be prepared for the project. If not, a Decision Record may be signed for the EA approving the selected alternative, whether the proposed action or another alternative. A Decision Record (DR), including a FONSI statement, documents the reasons why implementation of the selected alternative would not result in "significant" environmental impacts (effects) beyond those already addressed in _____ Resource Management Plan (mo., day, year).

1.2 Background

*Briefly profile the **proposed action** by giving who wants to do what, where, and when. Provide enough information for the public and the decision maker to understand the proposal. This should be done very briefly and succinctly. Give location of proposal (legal, general description, and map, as appropriate). Identify any links the proposed action may have to other federal, state, or local projects, if any. Maps, photographs, etc. may be attached as plates.*

EXAMPLE: The Bureau of Land Management (BLM) proposes to plug and abandon two artesian water wells located in T., R., section, Cainville Wash by stopping flow and filling the wells with cement. If approved, plugging operations would commence in October 2003. See attached location map.

1.3 Need for the Proposed Action

*Summarize the **need** for the proposed action. Explain what needs to be accomplished, or what is driving the proposal (the underlying problem). Focus on resource problems or, as appropriate, resource opportunities. If the need for the proposed action is to respond to BLM policy or mandate, state the policy/mandate and reference it. When appropriate, reference the applicable land use plan and its relevant objectives. All alternatives must meet this need. It is why the project is proposed. For additional information refer to BLM Handbook H-1790-1 section 6.2.*

Examples:

1) Company A has filed an Application for Permit to Drill (APD). The BLM's underlying need is to respond to the applicant's proposal to exercise valid existing rights by developing its Federal Lease UTU-____, consistent with the lease's terms and conditions, through drilling an exploratory well, and if successful, producing commercial quantities of oil and or gas from its Federal oil and gas lease. *(The applicant's need must be "federalized" as shown in the above example. Also, refer to the example 1 under Purpose of the Proposed Action section).*

2) BLM proposes to plug __ abandoned wells in the __ River watershed. The __ River has been identified as a major source of salinity in the Colorado River System. Saline water from the unplugged wells presently contributes to salinity in the __ and Colorado Rivers. One of the underlying needs for the proposed plugging of wells is to reduce the salinity of the __ and Colorado River. Also, saline ground water seeping from the wells that would be plugged could pollute water in the Wildcat #1 well that presently supports about __ acres of riparian vegetation. Another need for the proposed well plugging operation is to maintain water quality in the Wildcat #1 well and the riparian vegetation that depends on flow from the well.

3) The BLM in cooperation with the Utah Division of Wildlife Resources proposes to mechanically treat up to __ acres of decadent and dead sagebrush in three phases and apply the knowledge and experience gained in each phase to the next. The underlying need for the proposed action is to maintain the health of about __ acres of sagebrush-steppe community.

Over 600,000 acres of primarily Wyoming big sagebrush in Utah have been severely impacted by a six-year drought. The extent of the impact varies from sites with less than 50% sagebrush mortality, to sites with nearly 100% mortality. Understory vegetation in many of these impacted sites has also been severely reduced or eliminated. Approximately 55% of the impacted sagebrush habitat is on BLM-administered lands, and a major portion of the affected rangelands are considered important seasonal habitats for Gunnison's and greater sage-grouse and other sagebrush obligate species, as well as crucial winter ranges for mule deer and other big game.

Sagebrush mortality in the plots proposed for treatment in __ Valley and the __ Point area ranges from 60 to 70 percent. Loss of sagebrush in this area could result in conversion from a sagebrush-steppe vegetation community to a grass dominated community.

1.4 Purpose of the Proposed Action

*List the **BLM objectives or reasons for considering a non-bureau proposal**. Describe BLM's authorities and purposes for reviewing the proposed action. List the government's other objectives (other than the underlying need) for considering the proposal. These will provide the basis for development of alternatives to the proposed action and the criteria and rationale for the decision that will follow the EA process. Give the source of each objective (law, regulation, agreement, agency mission, prior NEPA document, land use plan etc.). As appropriate, tell what indicator(s) (component(s) of the environment) would be used to assess each objective, such as water quality standards, winter forage for mule deer, ACEC objectives, to be accommodated,. Avoid listing as objectives the project actions being proposed. A sound objective should allow different options or alternatives to achieve the objective. For additional information refer to BLM Handbook H-1790-1 section 6.2*

Examples:

1) BLM is considering approval of private exploration and production from federal oil and gas leases because the activity is an integral part of BLM's oil and gas leasing program under authority of the Mineral Leasing Act of 1920, as amended by the Federal Land Policy and Management Act of 1976 and the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Additionally, oil and gas exploration and development is recognized as an appropriate use of public lands in the ____ Resource Manage Plan that provides management direction for the leased area. BLM will consider approval of the proposed drilling in a manner that avoids or reduces impact on wintering mule deer and other resources and activities as identified in the ____ RMP, best meets the objectives of the ____ ACEC, and is consistent with the lease rights granted to the applicant and prevents unnecessary or undue degradation of the public lands.

2) BLM is proposing to plug the ____ wells in order to meet the ____ RMP's goals of eliminating or reducing pollutants into surface water and to achieve water quality that provides protection and propagation of fish , amphibians, wildlife, livestock, and recreation in an on the waters of the public lands and to restore and maintain the chemical, physical and biological integrity of the area's waters as required by the State of Utah's and EPA's water quality standards promulgated under authority of the Clean Water Act of 1972 as amended. BLM will consider plugging the wells in a way that minimizes direct impacts on biological and scenic resources in the project area, minimizes secondary impacts on availability of water to livestock, and best meets the objectives of the ____ County Master Plan.

3) BLM is proposing the restoration of ____ acres of sagebrush steppe community because FLPMA requires BLM to manage the multiple-uses of the public lands, including range, wildlife and natural values, without permanent impairment. Additionally, the project is intended to meet the goals of the ____ RMP which directs management of the area proposed for treatment to ensure that management of native plant species enhances, restores and does not reduce the biological and genetic diversity of natural ecosystems.

Other objectives of the proposed treatment action are to: 1) ensure that drought-impacted sagebrush communities are not replaced by invasive annual species such as cheatgrass, which could lead to unnatural increases in wildfire frequency; 2) provide winter forage and habitat for mule deer and other wildlife in critical deer winter range in the Utah Division Wildlife Resources (UDWR) Herd Unit--; 3) reduce soil loss, 4) conduct the treatment in a way that minimizes impacts to other resources; 5) apply and test various sagebrush habitat restoration methods in a scientific manner with the goal of improving knowledge, effectiveness, and cost-efficiency of sagebrush habitat efforts in the future; and 6) conduct the treatment in a way that conforms with the BLM ____ RMP (1991) and as consistently as possible with the ____ County Master Plan.

1.5 Conformance with BLM Land Use Plan(s)

Specify results of the Land Use Plan conformance review. Does the plan specifically identify a resource management action? If not, is the action consistent with the terms, conditions, and decisions of the approved plan? The following information must be provided:

- *Land Use Plan Name and its approval date;*
- *Conformance review results, identifying and stating the specific decision(s); or*
- *If the plan does not specifically identify the action, explain how the action would be consistent with plan objectives, terms and/or conditions;*
- *If appropriate, state that a new land use plan decision would be necessary to accommodate the action.*

For additional information refer to BLM Handbook H-1790-1 section 8.3.4.3.

Examples:

The proposed action and alternatives described below are in conformance with the _____ Resource Management Plan, approved _____.

- 1) They conform to decision(s) _____, on page(s) _____, which state(s): "It has been determined that the proposed action and alternative(s) would not conflict with other decisions throughout the plan.
- 2) Although the proposed action and alternative(s) are not specifically mentioned in the plan, they are consistent with its objectives, goals, and decisions as they relate to XXX programs and/or YYY resources as stated on pages _____ and _____ of the RMP. It has been determined that the proposed action and alternative(s) would not conflict with other decisions throughout the plan.

1.6 Relationship to Statutes, Regulations, or Other Plans

The following information must be provided

- *State whether or not the action is consistent with federal laws and regulations, provide appropriate citations;*
- *Specify consistency with Rangeland Health Standards and Guidelines and Native American Trust Resource policies;*
- *List all known federal, state, and local approvals and permits required, identified by type and entity; state whether the proposed action and alternatives are consistent with other plans, programs, and policies of affiliated Tribes, other federal agencies, state, and local governments to the extent practical within federal law, regulation, and policy; In Chapter 4, your effects analysis must also identify possible conflicts between the proposed action (and each alternative) and the objectives of Federal, State, regional, local and tribal land use plans, policies or controls for the area concerned (40 CFR 1502.16(c));*
- *List any other EIS/EAs that influence the scope of this document [e.g., tiering 43 CFR 46.120, 43.135, 46.140 and H-1790-1 section 5.2].*

For additional information refer to BLM Handbook H-1790-1 section 8.3.4.3.

1.7 Identification of Issues

Summarize the scoping process and activities that have been completed for the proposed action, such as public notification, including ENBB posting date, news releases, meetings, and other public involvement efforts. Cross reference to Chapter 5, Consultation and Coordination. Explain the relevant issues that are identified through the scoping process. Provide a brief definition that issues are essentially an effect on a particular resource component.

Refer to the ID Team Checklist, which contains a checklist of all resources and issues considered. Provide as part of the checklist, a clear rationale for dismissing each resource and issue from further analysis in the EA. When warranted, this section could be expanded to elaborate on resources or issues that were considered but eliminated from further analysis based on the rationale presented in the ID Team Checklist.

Identify the relevant issues that cannot be dismissed and must be carried through analysis in the EA. First identify the resource (i.e., wildlife, recreation, etc.). Then, in bullet form, specify the issue related to the resource. For example, impacts on mule deer critical winter range would be an issue under "Wildlife;" impacts on the use of an OHV loop trail would be an issue under "Recreation;" and impacts on prehistoric sites eligible for the National Register would be an issue under "Cultural Resources." The relevant issues should be presented in the following format:

1.7.1 Resource

- Issue 1
- Issue 2

1.7.2 Resource

- Issue 1
- Issue 2

Examples:

1.7.1 Water Quality

- Increase in total suspended particulates in a 3 mile segment of Chokecherry Creek below the proposed stream crossing.
- Increases in coliform bacteria in two culinary water wells near the proposed septic system.

1.7.2 Wildlife

- Temporary loss of winter forage for mule deer in Herd Unit 10A due to the proposed fire.
- Declines in deer populations in Herd Unit 10A due to harassment of deer by OHV users.

1.8 Issues Considered but Eliminated from Further Analysis

Identify any internally or externally generated issues along with rationale for not analyzing them.

1.9 Summary

This chapter has presented the purpose and need of the proposed project, as well as the relevant issues, i.e., those elements of the human environment that could be affected by the implementation of the proposed project. In order to meet the purpose and need of the proposed project in a way that resolves the issues, the BLM has considered and/or developed a range of action alternatives. These alternatives are presented in Chapter 2. The potential environmental impacts or consequences resulting from the implementation of each alternative considered in detail are analyzed in Chapter 4 for each of the identified issues.

2.0 DESCRIPTION OF ALTERNATIVES, INCLUDING PROPOSED ACTION

The interdisciplinary team rigorously explores and objectively evaluates all reasonable alternatives that meet the underlying need for the proposed action. This fulfills the requirement of taking a “hard look.” Other key components of this chapter include:

- *Formulate alternatives that relate to the purpose and need (objective and indicators), other applicable sideboards outlined in 2.1 below*
- *Ensure clear basis for choice among/between the alternative; each alternative must be equally detailed. If the proposal is complicated or includes many stages of implementation, decommissioning, etc., it may be necessary to include a matrix summarizing the specific elements of the proposed action and alternatives.*
- *Optional: Compare and contrast the alternatives by how they respond to the issues, purpose and need, and other applicable sideboards. This sets the stage for presenting and assessing in greater detail their consequences in Chapter 4.*

For additional information refer to 43 CFR 43.310 (b) and (c), 46.110 b, d, and e, and BLM Handbook H-1790-1 sections 4.6.1, 4.6.2, and 8.3.4.2.

2.1 Introduction

Briefly and succinctly describe the criteria used for developing the range of alternatives and the objectives of each alternative. Present the assumptions or “givens,” policies, regulations and/or practices, management direction, and standard operating procedures that will form the framework for the alternatives. Succinctly restate the objective(s) of the proposal and explain how the issues and indicators vary between/among the alternatives.

2.2 Alternative A – Proposed Action

*Identify the applicant, if not BLM. Include quantifiable information (e.g., location, extent, timing, duration, acres, workforce, etc.). Include all design features as they relate to the issues, objectives, and indicators. Outline applicant committed environmental protection measures. Caution: Do not change the proposed action without first consulting with and obtaining **written** agreement from the applicant, if not BLM. In cases where a proponent’s proposal lacks adequate detail, document the deficiency and contact the applicant to provide information necessary for the BLM to meaningfully evaluate the proposed action. For additional information refer to BLM Handbook H-1790-1 section 6.5.*

2.3 Alternative B – No Action

Describe the present management activities, change agents, or the continuation of the current situation that will occur even if the proposed action is denied. If the reasonably foreseeable action scenario for cumulative impacts includes related or cumulative actions that are not within the control of BLM, cross reference to that section of the EA and explain that these actions would likely proceed even if the proposed action is denied. For additional information refer to 43 CFR 46.310 (b) and BLM Handbook H-1790-1 sections 6.6.2 and 8.3.4.2.

Discuss constraints on selection of the alternative. Explain what the applicant would likely do if the proposal were not granted? Explain that the analysis of this alternative provides important baseline information for the decision maker and public.

2.4 Alternatives C – X (Other Action Alternatives)

*These alternatives, if appropriate, may build on the Proposed Action to include mitigation measures necessary to resolve resource conflicts/ issues and to meet agency objectives in different ways (Add as many additional action alternatives as needed that resolve resource conflicts, respond to public controversy or as directed by management in order to reasonably explore and take a “hard look” at options. **State clearly how the alternative would better meet the purpose and need or resolve conflicts.** For additional information refer to 43 CFR 46.310 (b) and BLM Handbook H-1790-1 sections 6.6.2 and 8.3.4.2.*

If no other alternatives are analyzed in detail, delete this heading and, in the section entitled “Alternatives considered but Eliminated from Further Analysis” explain why no other alternatives are analyzed.

Note: Any of the alternatives may be labeled as the AGENCY PREFERRED ALTERNATIVE depending on the preferences of the Authorized Officer. **Rationale for identification of the preferred alternative should not be presented in the text of the EA, but must be identified in the rationale for the selected alternative in the Decision Record. State how the alternative meets objectives or addresses conflicts.**

2.Y Alternatives Considered but Eliminated from Further Analysis

Generally, alternatives need not be analyzed if they do not meet the underlying need for the proposal, resolve conflicts, mitigate impacts, or create impacts greater than the proposed action. Economic considerations should not be the sole reason for eliminating an alternative. Alternatives not legally available to the agency should be analyzed if they would reduce impacts on the environment. List and briefly describe any alternatives considered but not analyzed. Provide a rationale for dropping such alternatives from further consideration. Include alternatives that were considered during the early feasibility discussions to show that BLM has considered a full range of alternatives. For example, if several sites for an APD were considered during an on-site visit before a proposed location was identified, discuss the process and tell why the early sites were dismissed. If a proponent claims an alternative is not feasible, the BLM should provide an independent evaluation of feasibility.

You may eliminate an action alternative from detailed analysis if:

- *it is ineffective (it would not respond to the purpose and need).*
- *it is technically or economically infeasible (consider whether implementation of the alternative is likely given past and current practice and technology; this does not require cost-benefit analysis or speculation about an applicant’s costs and profits).*
- *it is inconsistent with the basic policy objectives for the management of the area (such as, not in conformance with the LUP).*
- *its implementation is remote or speculative.*
- *it is substantially similar in design to an alternative that is analyzed.*
- *it would have substantially similar or greater effects to an alternative that is analyzed.*

For additional information refer to BLM Handbook H-1790-1 section 8.3.4.2.1.

2.Z Summary Comparison of Environmental Impacts

OPTIONAL - This is not required in an EA. However, a brief, succinct summary at this place in the document may assist the reader and the decision maker if there are more than 2 alternatives, or if complex issues are to be analyzed. Impacts may be compared in a matrix of alternatives and issues or in narrative form.

3.0 AFFECTED ENVIRONMENT

3.1 Introduction

This chapter presents the potentially affected existing environment (i.e., the physical, biological, social, and economic values and resources) of the impact area as identified in the Interdisciplinary Team Checklist found in Appendix ___ and presented in Chapter 1 of this assessment. This chapter provides the baseline for comparison of impacts/consequences described in Chapter 4.

3.2 General Setting

Briefly describe the environmental setting of the project area, include physiographic province, general climate, major vegetation types [if not discussed elsewhere in this Chapter], elevation, historical uses, precipitation, and any other general information that helps the reader understand the area. A site specific map and photographs should be considered.

3.3 Resources/Issues Brought Forward for Analysis

Appropriate scoping analysis will identify which environmental elements would be affected. For additional information refer to 43 CFR 46.125 and BLM Handbook H-1790-1 sections 6.7.1, 6.7.2, and 8.3.5. The following are guidelines to assist in development and presentation of this chapter:

- *Limit the discussion of environmental elements to only that which is necessary to understand the effects of the alternatives. Do not include encyclopedic information, but summarize what is needed for assessment/analysis.*
- *Describe the affected environment with the same indicators and units of measure used in Chapter 4.*
- *Summarize and incorporate by reference wherever possible. Remember that referenced material must be available to a reviewer and the reviewer told where the information can be obtained.*
- *Site-specific resource "clearance reports," surveys, inventories need to be properly referenced to substantiate discussions or conclusions.*
- *Present environmental components/resources in a consistent order throughout the document, e.g., alphabetical order, magnitude of conflict, etc.*
- *The identification of issues and analysis of environmental consequences should be completed before beginning preparation of the EA. Chapters 3 and 4 may be written separately, but must be jointly finalized. Some teams prefer to complete Chapter 4 before Chapter 3. The objectives here are to: a) focus only on those environmental components that would be actually affected by the alternatives (i.e. the issues identified in Chapter 1), and b) remove possible confusion of having new baseline information introduced in Chapter 4, or impacts analyzed in Chapter 3.*

*Discuss only those resources and issues that are identified in section 1.7; those determined to be **potentially impacted** in the Interdisciplinary Team Checklist. Refer to the ID Team Checklist for resources considered but not carried forward in detail. Describe in detail the existing environment, conditions, and trends related to each resource for which there is an issue are described in detail. This narrative provides the indicators, and units of measure that will be subsequently analyzed for degree of change in Chapter 4.*

The description of the affected environment should portray what is, not what would be if the proposal is approved, and should avoid any impact language that is appropriate for Chapter 4 discussions. Make sure the affected environment tracks in logic, order of presentation, level of detail indicators and units of measure with the environmental impacts section.

3.3.1 Resource 1

For consistency, the potentially impacted resources must be addressed in the same order presented in Chapters 1 and 4.

3.3.2 Resource 2

Continue until all resources are presented.

4.0 ENVIRONMENTAL IMPACTS

Analysis of the environmental consequences (impacts) is separate and distinct from preparation of the EA. Impact analysis is a thinking, investigative, and analytical process completed by an interdisciplinary team. Preparation of the EA is a writing, editorial, and publication process which is necessary to document the investigation and impact analysis made by the team. ***Remember; do not use the word “significant” in the analysis or EA.*** Provide the context, magnitude and intensity of the impact so that the decision maker can determine significance when the FONSI and DR are prepared. For additional information refer to BLM Handbook H-1790-1 section 6.4.

Most courts have interpreted “major” to reinforce, but not to have a meaning independent from the term “significantly.”

Your EA must identify the known or predicted effects that are related to the issues (40 CFR 1500.4(c), 40 CFR 1500.4(g), and 40 CFR 1502.16. An issue differs from an effect analysis; an issue describes an environmental problem or relation between a resource and an action, while effects analysis predicts the degree to which the resource would be affected upon implementation of action.

The terms “effects” and “impacts” are synonymous in the CEQ regulations (40 CFR 1508.8).

4.1 Introduction

Set the stage for the analysis. Briefly and succinctly summarize what issues and resources are to be analyzed; provide any analysis assumptions and/or management guidelines that will help define the limits of analysis. If all mitigation has been included in the Descriptions of the Alternatives, state that: “Because all known mitigating measures have been included in the Descriptions of the Alternatives, the environmental consequences described below are unavoidable.” When this is the case, Mitigation Measures and Residual Impacts sections should not be included in this chapter.

4.2 General Analysis Assumptions and Guidelines

Describe the analytical methodology sufficiently so that a reader can understand how the analysis was conducted and why the methodology was used (40 CFR 1502.24). This explanation must include a description of any limitations inherent in the methodology. If there is substantial dispute over models, methodology, or data, you must recognize the opposing viewpoint(s) and explain the rationale for your choice of analysis. You may place discussions of methodology in the text or in the appendix of the document. To the extent possible, we recommend that the analysis of impacts be quantified.

Specialists are required to review all general assumptions.

The analytical assumptions, including geographic and temporal scope, the baseline for analysis, as well as reasonably foreseeable future actions must be clearly stated. Explain any assumptions made when information critical to the analysis was incomplete or unavailable (40 CFR 1502.22).

4.3 Direct and Indirect Impacts

Direct effects are caused by the action and occur at the same time and place. Indirect effects are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.

Follow the outline provided below for all alternatives analyzed in detail.

Identify and analyze direct and indirect impacts on the affected environment caused by the change agents (actions) described for the proposed action, including any policies or standard program requirements. The order of presentation, level of detail, indicators and units of measure should be the same as in Chapter 3. Analysis can be divided into the following component parts:

- *Cause of the impact: What would cause an impact, i.e., change, in the present or future environment?*
- *Nature of the impact: What would be affected / impacted and how would it be affected?*
- *Context and intensity: Where would the impact occur? What is the geographic location and extent of change? What is the magnitude or degree of change? How can the magnitude be expressed qualitatively (empirically measurable units) or quantitatively (relative comparative terms)?*

Clarity of expression, logical thought processes, and rational explanations are more important than length or format in the discussion of impacts. For additional information refer to 43 CFR 46.310 (e), (f), and (g) and BLM Handbook H-1790-1 sections 6.8 and 8.3.6. Following these guidelines will help the decision-maker and the public understand your analysis:

- *Use objective, professional language without being overly technical.*
- *Avoid subjective terms such as good, bad, positive and negative. The term significant has a very specific meaning in the NEPA context. While it is a common descriptor, do not use it in NEPA documents unless it is intended to take on the NEPA meaning.*
- *Avoid the use of acronyms.*
- *Make sure to reference applicable general assumptions in section 4.2 also describe any resource specific assumptions.*
- *If data are incomplete or lacking refer to 40 CFR 1502.22 for guidance.*

If necessary information is incomplete or lacking, and cannot be obtained, it must be disclosed along with why the data would be useful. For additional information refer to 43 CFR 46.125 and BLM Handbook H-1790-1 section 6.7.2.

4.3.1 Alternative A – Proposed Action

4.3.1.1 Resource 1

Example: Wildlife

Issue: Impacts on Mule Deer Populations in Herd Unit 10A.

1) Clearing of two acres of land for installation of the water tank would decrease forage production used by deer in the winter months by 400 pounds per year for the 30-year life of the water tank. The decrease in forage production would eliminate feed for one deer for one month. The 5000 undisturbed acres in Herd Unit 10A would continue to produce about 1 million pounds of forage each year. This is sufficient to feed approximately 2500 deer. Since there are only an estimated 600 deer in the herd unit, there would be sufficient forage available to feed the herd through the winter.

4.3.1.2 Resource 2

Example: Livestock Grazing

Issue: Impact of forage loss on levels of Livestock Grazing

The stripping of 200 acres of vegetation for the proposed mine would decrease available forage for livestock in the Verdant Allotment by 10 AUMs. The decrease of 10 AUMs in the 400 AUM allotments would reduce the allowable number of AUMs by 2.5%. This reduction in AUMs would reduce the number of allowable cattle by 2, or a decrease of 1%. The economic impact of reduction of the number of permitted cattle is analyzed in the socio-economic impacts section of this EA.

4.3.1.3 Resource 3

Continue in this outline format to present all relevant resources and issues

4.3.1.X Mitigation Measures

*Note: this section is not required if all mitigation has been identified in the Descriptions of the Alternatives. Describe any measures **not** included in the description of the proposed action which could mitigate some or all of the impacts identified in the analysis of environmental impacts. If all the measures are incorporated into the proposed action, state that no measures other than those incorporated into the proposed action have been identified. State whether the mitigation measure(s) would completely or partially negate the environmental impact. Analyze the effectiveness of the mitigating measure. If additional mitigation is identified for several resources, add a new alternative to the EA and analysis that incorporates all of the proposed mitigation. In this case, eliminate the mitigation measures and residual impact sections of the EA. For additional information refer to 43 CFR 46.130.*

4.3.1.Y Residual Impacts

Note: this section is not required if all mitigation has been identified in the Descriptions of the Alternatives. Describe the impacts on the affected environment which would remain after application of the mitigation measures, if any. Be sure to analyze the impacts of the proposed mitigation measures on other resources. For example, chaining and seeding proposed to mitigate impacts on wildlife may result in impacts on water quality, recreation, visual, or other resources that must be analyzed in the EA. For additional information refer to BLM Handbook H-1790-1 sections 6.8.4.

4.3.1.Z Monitoring and/or Compliance

Monitoring and/or compliance can provide important information regarding desired outcomes compared to actual outcomes. The main purposes of NEPA related monitoring are to: evaluate the quality of the NEPA document, ensure compliance with the NEPA decision, measure the effectiveness or success of application stipulations, and evaluate the validity of NEPA decisions. Provide the following information as part of the analysis process:

- *Identify what resource(s) should be monitored and why. The issues identified by the ID team should be used to focus the monitoring on those resources of primary concern.*
- *Identify who would conduct the monitoring, including skills and equipment necessary and methods to be used.*
- *Describe the frequency and duration of the monitoring activity (Adaptive Management).*
- *Utilize Adaptive Management as applicable (43 CFR 46.145 and 46.310(d)).*
- *The suggested monitoring is identified in the EA. The commitment to this monitoring is made in the Decision Record. If carried into the Decision Record, the monitoring must be implemented as specified.*

Note: *If monitoring is deemed unnecessary for an action, the following statement should be incorporated into the EA: “No monitoring needs have been identified for this action.”*

If monitoring needs have been described as a part of the proposed action, incorporate the following sentence: “The monitoring described in the proposed action would be sufficient for this action because . . . (insert rationale).”

4.3.2. Alternative B – No Action

Repeat as above for Alternative A

Explain that if the proposal is rejected, there would be no direct, indirect or cumulative impacts from the proposed action. However, do describe the impacts of the actions that would continue even if the proposed action is not approved, including any impacts resulting from reasonably foreseeable projects identified below. For additional information refer to BLM Handbook H-1790-1 section 6.8.

4.3.3 Alternative C – X – Other Action Alternatives (Agency Preferred if applicable):

Repeat as above for Alternative A

4.4 Cumulative Impacts

“Cumulative impacts” are those impacts resulting from the incremental impact of an action when added to other past, present, or reasonably foreseeable actions regardless of what agency or person undertakes such other actions.

The purpose of the cumulative effects section is to describe the interaction among the effects of the proposed action and these various past, present, and reasonably foreseeable actions. This interaction may be:

- *Additive: the effects of the actions add together to make up the cumulative effect.*
- *Countervailing: the effects of some actions balance or mitigate the effects of other actions.*
- *Synergistic: the effects of the actions together is greater than the sum of their individual effects.*

Refer to H-1790-section 6.8.3 for additional discussion on cumulative impacts.

The following is a basic cumulative impacts outline. The cumulative effects analysis will usually vary by resource. Remember to quantify impacts whenever possible.

- 1. Identify the resource being impacted.*
- 2. Identify the Cumulative Impact Area for the subject resource.*
- 3. Describe briefly why the Cumulative Impact Area is applicable.*
- 4. As appropriate for the subject resource, incorporate by reference cumulative analysis (including past, present, and reasonably foreseeable actions and their direct or indirect impacts) from existing documents and state why the referenced material is relevant.*
- 5. List or describe any additional past, present, and reasonably foreseeable actions ongoing in the Cumulative Impact Area beyond those previously analyzed in the documents referenced in step 4 that affect the subject resource.*
- 6. Briefly describe any additional direct and indirect impacts to the subject resource resulting from the past, present and reasonably foreseeable actions which were not previously analyzed and incorporated by reference.*
- 7. Briefly describe what the action alternative(s) will add to the past, present, and reasonably foreseeable impacts.*
- 8. If the no action alternative is a continuation of the existing situation, briefly describe what the no action will add to the cumulative impacts. If the no action alternative is to not approve the activity state: “Because the No Action Alternative will not result in any direct or indirect impacts, it will not result in an accumulation of impacts.”*

Examples are included on the following page.

Example 1: Livestock Grazing

The CIAA for livestock grazing is the Olsen AMP Grazing Allotment, which is the only allotment affected by the proposed action or alternatives. Cumulative impacts livestock grazing would include the loss of AUMs for the life of the disturbance. In the cumulative impact area, past, present, and reasonably foreseeable activities include oil and gas activities, recreation activities (including OHV use), and prescribed burns. The incremental impacts of all but the oil and gas activities are impossible to quantify. Table 5-6 below, displays the past and reasonably foreseeable impact of oil and gas development on AUMs in the Olsen AMP grazing allotment.

Table 5-6.AUMs Lost from Past and Reasonable Foreseeable Oil and Gas Developments in the Olsen AMP Grazing Allotment

	Total Allotment AUMs	Past Action AUMs Lost	RFD AUMs Lost	AUMs Lost per Alternative	Total Reasonably Foreseeable AUMs Lost	% of Total Allotment AUMs Lost
Alternative A	134,307	29	97	12	138	0.1%
Alternative B	134,307	29	97	6	132	0.1%
Alternative C	134,307	29	97	6	132	0.1%
Alternative D	134,307	29	97	0	126	0.1%

In addition to loss of AUMs: increased roads within the Project Area would cumulatively contribute to difficulties in controlling livestock as more natural barriers to livestock movement are removed, and as more livestock use roads as travel routes; increased road and pipeline ROWs could contribute to changes in water flow, thereby reducing flows to livestock ponds; loss of vegetation and increased traffic and human activity in the Project Area could contribute to livestock displacement that is occurring throughout the Project Area as a result of recreational activities and other land uses. These past, present, and future construction activities, and other visual and noise impacts in the Project Area could cause livestock to move to adjacent undisturbed areas, thereby leading to additional livestock impacts on vegetation in those locations.

Example 2: Paleontological Resources

As potential impacts to paleontological resources across a geographic landscape are not additive, the cumulative impact area of analysis is the project area which covers 21,760 acres. As was disclosed in the River Bend/West Willow Creek EA (UT-080-97-049) past actions include 182 oil and gas wells within the River Bend Unit (pre-1997) resulting in 710 acres of surface disturbance. There were 301 additional wells proposed within the River Bend/West Willow Creek EA, with a total surface disturbance of 895 acres. The 4 additional wells proposed in this EA would be part of the wells conceptually approved though the 1997 EA. Future actions in the vicinity include, the River Bend Infill EA which could vertically and directionally drill 484 wells, including 128 wells previously approved under the 1997 River Bend EA, resulting in a total of 1,103 acres of disturbance. A total of 2,708 acres would be cumulatively disturbed (12 % of total land area in the Unit), which is a conservative total due to the overlapping of analyzed acres between the 1997 and ongoing River Bend EAs. Additional past, present, and reasonably foreseeable activities in the project area include some OHV use and vegetation treatment activities. The surface disturbance, if any, associated with these activities is impossible to quantify due to their dispersed nature. Paleontological surveys are conducted in areas with high potential for producing paleontological resources prior to approval of surface disturbing activities, and identified paleontological resources are avoided or collected. However, paleontological resources that are not visible on the surface could be unknowingly damaged or destroyed by construction activities. Unknown paleontological resources could be disturbed on up to 2,708 acres. The proposed action would make up 9.5 acres of the total disturbance. The no action alternative would not result in an accumulation of effects.

4.4.1 Resource 1

4.4.1.1 Cumulative Impact Area (CIA)

Describe the geographic boundaries of cumulative impact analysis for each of the resources analyzed.

4.4.1.2 Past and Present Actions

Past or ongoing actions that affect the same components of the environment as the proposed action are:

Describe and explain the actions and activities that are in place or ongoing that affect the same environmental components that the proposed and alternative actions would affect.

4.4.1.3 Reasonably Foreseeable Action Scenario (RFAS)

The following RFAS identifies reasonably foreseeable future actions that would cumulatively affect the same resources in the cumulative impact area as the proposed action and alternatives.

Include a reasonably foreseeable action scenario (RFAS) that identifies the actions and impact area(s). In order to be reasonably foreseeable, actions must be planned or proposed. They need not be speculative or in the distant future.

The NEPA Handbook (Section 6.8.3.4) defines a reasonably foreseeable action to those for which there are existing decisions, funding, formal proposals, or which are highly probable, based on known opportunities or trends.

4.4.1.4 Cumulative Impact Analysis

Incorporate cumulative analysis from existing documents by reference and tier to the existing land use plan, as appropriate. If no cumulative effects are anticipated from the action, use the following: "It has been determined that cumulative impacts would be negligible as a result of the proposed action or alternatives because...." Refer to H-1790-1 pages 57-61 for additional discussion on cumulative impacts.

Describe the interaction among the effects of the proposed action and these various past, present, and reasonably foreseeable actions. This interaction may be:

- *Additive: the effects of the actions add together to make up the cumulative effect.*
- *Countervailing: the effects of some actions balance or mitigate the effects of other actions.*
- *Synergistic: the effects of the actions together is greater than the sum of their individual effects.*

How the different effects interact may help determine how you may best describe and display the cumulative effects analysis. It will often be helpful to describe the cause-and-effect relations for the resources affected to understand if the cumulative effect is additive, countervailing, or synergistic.

The cumulative effects analysis provides a basis for evaluating the cumulative effect relative to any regulatory, biological, socioeconomic, or physical thresholds. Describe how the incremental effect of the proposed action and each alternative relates to any relevant thresholds.

Distinguish between the impacts of the alternatives.

4.4.2 Resource 2: (repeat as necessary)

4.4.2.1 Cumulative Impact Area

4.4.2.2 Past and Present Actions

4.4.2.3 Reasonable Foreseeable Action Scenario

4.4.2.4 Cumulative Impact Analysis

5.0 CONSULTATION AND COORDINATION

5.1 Introduction

The issue identification section of Chapter 1 identifies those issues analyzed in detail in Chapter 4. The ID Team Checklist provides the rationale for issues that were considered but not analyzed further. The issues were identified through the public and agency involvement process described in sections 5.2 and 5.3 below.

5.2 Persons, Groups, and Agencies Consulted:

List all persons, agencies, and organizations consulted, and the purpose of such consultations. A table may be used for this purpose. Note: This applies only to those consulted whose information assisted in the preparation of the EA, not those that commented on the EA during a public comment period. Sample wording is provided. The actual wording must be developed based on the circumstances of the proposal and results of the consultation process. For additional information refer to BLM Handbook H-1790-1 section 8.3.7.

Table 5-1: List of all Persons, Agencies and Organizations Consulted for Purposes of this EA.

Name	Purpose & Authorities for Consultation or Coordination	Findings & Conclusions
U.S. Fish & Wildlife Service (US FWS)	Information on Consultation, under Section 7 of the Endangered Species Act (16 USC 1531)	The Service agrees, by letter dated ____, that the proposed action may affect but would not adversely affect listed species because..... (Refer to Appendix __)
Utah State Historic Preservation Office (SHPO)	Consultation for undertakings, as required by the National Historic Preservation Act (NHPA) (16 USC 470)	SHPO has approved, by letter dated ____, that..... (Refer to Appendix __)
____Tribe	Consultation as required by the American Indian Religious Freedom Act of 1978 (42 USC 1531) and NHPA (16 USC 1531)	A meeting was held on ____ (date) to describe and discuss the concerns of the Tribe concerning the proposed action. A follow-up letter was sent and/or phone calls made on ____ (date(s)). The Tribe has responded by letter dated ____, that..... OR The Tribe has not responded identifying any concerns. Lack of response is interpreted by BLM to indicate that the Tribe has no concerns relative to the proposed action.
U.S. Army Corps of Engineers	The project would require a permit from the Corps under authority of Section 404 of the Clean Water Act (33 USC 1251)	The Corps has indicated that the project meets the nationwide permit criteria which states.....
Utah Div. of Wildlife Resources	Consult with UDWR as the agency with expertise on impacts on game species.	Data and analysis regarding big game species incorporated into Chapters 3 and 4.

Table 5-1

List of all Persons, Agencies and Organizations Consulted for Purposes of this EA.

Name	Purpose & Authorities for Consultation or Coordination	Findings & Conclusions

5.3 Summary of Public Participation

Describe in greater detail than Chapter 1, the process used to involve meaningful participation by the public. Discuss the need for public comment, or if comment period is not afforded, include date of posting on ENBB, when and how scoping was conducted, dates of public meetings [if any], dates of public comment period, etc. See Chapter 2 for guidance on public involvement.). For additional information refer to BLM Handbook H-1790-1 sections 6.9 and 8.3.7.

Do not include 5.3.1 – 5.3.3 in an EA when it is being released for public comment or if a public comment period is not offered.

Example: During preparation of the EA, the public was notified of the proposed action by posting on the Utah Internet Homepage on ____date. The process used to involve the public included_____. A public comment period was (not) offered (because....) between ____month/date/year and ____month/date/year.

5.3.1 Comment Analysis

*If applicable, complete this section **after** the public comment period. Delete this section in EAs that are being released for public comment. Follow the guidance provided in the public involvement section of this Guidebook. For additional information refer to 43 CFR 46.305 and BLM Handbook H-1790-1 section 6.9.*

5.3.2 List of Commenters

*If applicable, complete this section **after** the public comment period. Delete this section in EAs that are being released for public comment. List all individuals/entities providing comment on the EA, with the exception of that information that is protected by the privacy act. If appropriate, provide a succinct summary of the comments received or copies of the letters with the comments bracketed and numbered for response. Include copies of letters from state, local, and tribal governments (and agencies) and members of Congress.*

5.3.3 Response to Public Comment

If applicable, group similar/like comments under appropriate headings if numerous comments are received. See Chapter 9 of the Guidebook for guidance and examples on responding to comments. For additional information refer to BLM Handbook H-1790-1 section 6.9.2.2.

5.4 List of Preparers

*List all preparers, their area(s) of expertise, and the section(s) of the document they prepared. If the EA is prepared for BLM by a consultant, BLM should **not** be listed as an agency consulted, but rather included in the list of preparers. This information may be presented in table format. Sample wording is provided. The actual wording must be developed based on the actual preparers of the EA.*

Table 5.4: List of Preparers:

5.4.1 BLM:

Name	Title	Responsible for the Following Section(s) of this Document
Robert Raptor	Team Leader	Technical Coordination & Quality Control
Jim Rafter	Recreation Specialist	Impact analysis for recreation, and visual resource management
Stephen McCoy	Petroleum Engineer	Impact analysis for energy mineral resources

5.4.2 Non-BLM Preparers: (Name the Non-BLM Preparer (company name(s), contractor, etc.)

Name	Title	Responsible for the Following Section(s) of this Document
John Smith	Team Leader	Technical Coordination & Quality Control
Mike Falcon	Wildlife Biologist	Impact analysis for big game, T&E animal species
Donna Bales	Soils/Watershed Specialist	Impact analysis for watershed, water quality, and reclamation

Table 5.4 List of Preparers

5.4.1 BLM

Name	Title	Responsible for the Following Section(s) of this Document

5.4.2 Non-BLM Preparers

Name	Title	Responsible for the Following Section(s) of this Document

6.0 REFERENCES, GLOSSARY AND ACRONYMS

6.1 References Cited

*This chapter provides literature references for all citations within the body of the EA including documents tiered to or incorporated by reference. "Best professional judgment" conclusions should reference published articles, documents, in-house working documents, etc. as the basis for the judgment. Specialists must turn in a list of complete references along with their other EA input. Cite published scientific information where possible. Include at a minimum BLM documents used such as a cultural PMOA, Water Quality 303(d) list; BLM/NRCS range site guides; published soil surveys, T&E IM 96-69, and IM-97-66 (which includes official UT BLM sensitive species list, etc.) Other credible references include published articles or studies in scientific journals; other agency and university studies; Utah statistics; published state/county socio-economic statistics; and published information provided on the internet. There are various styles for the citations and references. The Franklin Quest *Style Guide for Business and Technical Communication*, Third Edition, 2001, provides rules for citations on page 49, and bibliography on pages 29 and 30. Be consistent in the style of citations and references. Writers should use the reference worksheet provided in Appendix 5 of this Guidebook to record references cited in the analysis and EA, and submit to EA preparer for inclusion in the EA. Cite specific pages utilized or relied upon in your EA.*

Common Examples:

- 1) Finch, Deborah M. & Scott H. Stoleson, eds., 2000. *Status, Ecology & Conservation of the Southwestern Willow Flycatcher*. General Tech Report RMRS-GTR-60. Ogden, UT: USDA, Forest Service, Rocky Mountain Research Station. 131 pp.
- 2) MacMurphy, John. "Effects of streamside vegetation on water temperature." Personal telephone call. May, 24, 2002.

6.2 Glossary of Terms

Optional - If the EA includes technical terms that must defined in order for the readers to understand the document, provide a glossary of terms (including the source for the definition) used in the EA. List in alphabetical order all technical terms or phrases used in the EA. Provide a source for the definition provided; explain if there may be any deviations from the official/legal definition used and why.

6.3 List of Acronyms

Optional - If several acronyms are used in the EA, or if there are confusing acronyms, provide a list of any acronyms and their full translation as a courtesy to the reader. The acronyms and their translations should be listed in alphabetical order. Provide a definition for the acronym in the glossary, if appropriate.

APPENDICES

The appendices should include information that is necessary for understanding or supporting the analysis and text of the EA. This section may include any of the following, as necessary:

- Detailed descriptions of project components necessary to support technical analysis
- Topographic maps or engineering drawings, referred to in text as figures or plates
- Photographs
- Any visual enhancements to help the reader
- Charts, graphs, figures, tables, etc.
- Technical reports
- Conclusion of consultation correspondence including determinations/concurrence

All BLM EAs will always include the “Interdisciplinary Team Checklist” as an appendix. [Chapter 5 of the Guidebook (a template of this checklist is also available)].

APPENDIX A Interdisciplinary Team Checklist

APPENDIX B (repeat as necessary)

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CHAPTER 9

RESPONSE TO PUBLIC COMMENTS

Responding to public comments received during the EA process can be done in many ways. Some public comments may require slight modifications and clarification in the EA while others may just need to be responded to, not affecting the EA document at all. If few comments are received, these may be addressed in the Consultation / Coordination section of the EA or in the Decision Record under the Rationale section. In this case, describe the comments received from the public, how those comments influenced the changes in the EA, and the modifications made. If there are numerous comments and complex issues, they can be responded to in an appendix to the EA or in the Decision Record under the Rationale section. For additional information refer to 43 CFR 46.305 and BLM Handbook H-1790-1 sections 6.9 and 8.5.1 ^{#4}.

Preparing to Respond to Comments

When you anticipate receiving a large number of comments, we recommend that you develop an organized system for receiving and cataloging comments before the comments start arriving. Training (formal or informal) to ensure that staff understand their responsibilities and the system's organization may be valuable. For proposals that may have a large number of comments, we recommend that you develop a systematic way to track substantive comments and the BLM's response, such as in a searchable database. Commenters may wish to know how the BLM responded to their comments; having a well-organized means of determining this will facilitate the process.

Responding to Substantive Comments

You may respond to comments in several ways:

- write a letter or send an email to the commenter and record your response in the administrative record.
- present the comment and your response in the NEPA document.
- present the comment and your response in the decision document.

The CEQ recommends that responses to substantive comments should normally result in changes in the text of the NEPA document, rather than as lengthy replies to individual comments in a separate section (see Question 29a, CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981). If the comments are made with respect to the BLM decision, you may respond to the comments in the decision documentation or Record of Decision rather than in the EA.

Responding to Non-substantive Comments

You are not required to respond to nonsubstantive comments such as those comments merely expressing approval or disapproval of a proposal without reason. However, you may wish to acknowledge the comment, and may do so in a variety of methods, including but not limited to sending postcards, letters, or email responses. Non-substantive comments may be acknowledged in the consultation and coordination section and/or a reference in the ID Checklist, with a brief description of why they are not carried forward in the analysis.

Substantive comments do one or more of the following:

- question, with reasonable basis, the accuracy of information in the EA.
- question, with reasonable basis, the adequacy of, methodology for, or assumptions used for the environmental analysis.
- present new information relevant to the analysis.
- present reasonable alternatives other than those analyzed in the EA.
- cause changes or revisions in one or more of the alternatives.

Comments that are not considered substantive include the following:

- comments in favor of or against the proposed action or alternatives without reasoning that meet the criteria listed above (such as “we disagree with Alternative Two and believe the BLM should select Alternative Three”).
- comments that only agree or disagree with BLM policy or resource decisions without justification or supporting data that meet the criteria listed above (such as “more grazing should be permitted”).
- comments that don’t pertain to the project area or the project (such as “the government should eliminate all dams,” when the project is about a grazing permit).
- comments that take the form of vague, open-ended questions.

In all cases, explain whether the modifications made significantly changes in the overall EA analysis and conclusions. **If the response to public comment requires significant changes in analysis, or analysis of an additional alternative(s), a new EA must be prepared and made available for public comment.**

The following approaches correspond to the public involvement examples in this section:

Example 1: In those situations where there is a need to respond to many public comments and those public comments have not caused a need to change the analysis, it is appropriate to have a “Response to Public Comment” document appended to the EA or FONSI/DR.

Example 2: If there are some slight modifications that should be made to the EA as a result of public comment, and these modifications do not change the analysis, append an “ERRATA” document to the FONSI and DR. Under this situation, it is not necessary to reprint the EA when the FONSI and DR and Response to Public Comment and/or Errata documents are sent out to the public for notification and potential appeal.

Example 3: The discussion of changes is incorporated into Chapter 5 of the revised EA. The FONSI/DR should refer to Chapter 5 of the EA and provide a brief discussion about how changes were made to the EA in response to public comment, why they were made, that they did not cause a significant change to impact analysis, and that they are outlined in Chapter 5 of the new EA.

Example 4: This example shows how comments that deserve clarification or explanation, but do not result in a change of the EA, are addressed. Such comments are attached to the revised EA. Again, the FONSI and DR should clarify that BLM has responded to public comments and they can be found as an attachment to the revised EA.

If the EA is revised based on public comments, a copy of the revised/final EA must accompany the FONSI and DR. Changes made must be discussed and outlined in the final EA so that the public can readily identify the changes.

EXAMPLE 1 – *Responding to many public comments when public comments have not identified the need to change the analysis – appended to the FONSI/DR.*

Response to Comments on the San Rafael Route Designation Plan Environmental Assessment

There were many questions and concerns received by BLM from the public during the comment period on the San Rafael Route Designation Plan Environmental Assessment (EA). This “Response to Comments” document provides answers to questions and clarification to the concerns that were brought forth from the public on the EA. The comments and responses are arranged alphabetically, primarily by resource and/or process related topics. Topics include: National Environmental Policy Act, rangeland resources, and recreational resources.

******* NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) *******

NEPA1 - The range of alternatives should have included options that offer broader protection from OHVs.

RESPONSE: This Route Designation Plan is tiered to the San Rafael RMP for which an EIS was prepared. One alternative considered in the RMP EIS was closing the entire area to OHVs. In this EA, BLM provided four diverse alternatives that meet the requirement of NEPA. The alternatives also considered different levels of protection for certain resource values.

******* RANGELAND RESOURCES *******

RANGE1 - The EA does not address conflicts between ranchers and OHV users.

RESPONSE: BLM has not been contacted by ranching permittees in the area concerning user conflicts nor were such conflicts identified during public scoping for this EA. Therefore, it is not an issue for analysis.

RANGE2 - Many of the routes provide access for ranchers to check their livestock and maintain their grazing facilities. They should be left open.

RESPONSE: Page 8 of the EA states that this Route Designation Plan would not impact grazing management because grazing is a permitted use and access for permittees would continue to be allowed in accordance with grazing permits.

******* RECREATIONAL RESOURCES *******

REC1 - BLM should not authorize OHV use without adequate means to enforce limitations and monitor use and damage.

RESPONSE: BLM has outdoor recreation planners, recreation technicians, other resource specialists, law enforcement personnel, and partnerships to manage and monitor increased visitor use. Pages 20 and 21 of the EA specifically discuss ongoing and existing OHV monitoring and assessment efforts in the San Rafael area. The attached implementation plan also addresses this issue.

REC2 - There should be measurable, definitive triggers for closure or other limitations on designated trails.

RESPONSE: The BLM has been and continues to monitor OHV routes for resource damage. Pages 82 and 83 of the EA provide an implementation and monitoring plan, which further clarifies actions that will be taken to enforce the Route Designation Plan. An implementation plan with additional information is attached to the Decision Record. A detailed monitoring plan is being developed with the BLM State Office.

EXAMPLE 2 – *As a result of public comment, slight modifications have been made to the EA, but these modifications do not change the analysis - append an “ERRATA” document to FONSI and DR.*

ERRATA TO THE SAN RAFAEL ROUTE DESIGNATION PLAN ENVIRONMENTAL ASSESSMENT

This Errata document presents minor changes to the maps and text of the San Rafael Route Designation Plan Environmental Assessment (EA) as a result of public comments. This document accompanies the DR and is part of the permanent file.

1. Routes Adjustments to Alternative One (No Action): Numerous trail maps and new information have been submitted to the BLM for consideration in response to the EA on the Route Designation Plan. BLM has taken a hard look at these submittals. In some cases, routes have been added to the baseline for Alternative 1, and in some cases routes have been deleted, as depicted on the attached *Errata - Map 1 – Alternative One (No Action)*. This map does not represent the decision for the San Rafael Route Designation EA; it only displays the changes to the route inventory baseline data, some of which were used to formulate the decision. More detail concerning Map 1 can be obtained from the Price Field Office.

This San Rafael Route Designation Plan basically deals with secondary dirt roads and trails that are seldom, if ever, mechanically maintained and may often require high-clearance and/or 4-wheel drive vehicles. The primary infrastructure of maintained roads, which includes paved, graveled, and specific unsurfaced dirt roads are not a subject for designation in this EA. This primary infrastructure includes approximately 650 miles of Emery County-maintained roads, 183 miles of BLM transportation system roads, 199 miles of paved state roads, 79 miles of Interstate-70, and numerous miles of routes that cross School Institutional Trust Lands Administration Lands (SITLA) – none of which are not affected by this route designation plan. The secondary routes, which are the subject of this Plan, include hundreds of OHV routes that comprise approximately 1,150 miles. These routes establish the baseline inventory for the San Rafael Route Designation Plan EA. This Erratum adds approximately 70 additional baseline miles of inventoried routes from that portrayed in Alternative 1 of the EA. The route changes made to this alternative are minimal and do not affect the overall analysis of designating routes under this alternative.

2. Route Adjustments to Alternative Four (Proposed Alternative): The Alternative Four map has been modified in response to public comments. Some new routes that were identified by the public for baseline have been added to this alternative because they fit the criteria used to formulate this alternative. Others have been deleted based on specific public comments because they did not meet the general criteria for the alternative. The attached *Errata - Map 2 – Alternative Four (Proposed Alternative)* depicts these changes. Based on these minor changes, approximately 677 miles of secondary routes are identified for designation in the Proposed Alternative. This added an overall total of approximately 14 miles of routes to the Proposed Alternative. Of the 677 miles of routes identified for OHV use under this alternative, 41 miles are for single track use and 5 miles are restricted to vehicles 52” or less. The route changes made to this alternative are minimal and do not affect the overall analysis of designating routes under this alternative. More detail concerning Map 2 can be obtained from the Price Field Office.

Designating routes under this alternative would not affect the primary infrastructure of maintained roads, which includes paved, graveled, and specific unsurfaced dirt roads because they are not a subject for designation in this EA. This primary infrastructure includes approximately 650 miles of Emery County-maintained roads, 183 miles of BLM transportation system roads, 199 miles of paved state roads, 79 miles of Interstate-70, and numerous miles of routes that cross SITLA lands, none of which are subject to this route designation plan.

EXAMPLE 2 *(continued)*

3. Table of Contents, Appendix 1: Add to *Federal Register Notice*, February 1992 “Emergency Closure and Restriction on Public Land in the Wedge Portion in the Middle San Rafael River Area of Critical Environmental Concern (ACEC)”.

4. Page 3, BACKGROUND, 3rd paragraph, 3rd sentence: Replace the sentence with the following clarification information: “Four inventoried ways (comprising eight segments) which existed prior to the designation of the Sid’s Mountain WSA were left open “conditionally”. The eight segments include: Coal Wash, the dugway entering Coal Wash, North and South Forks of Coal Wash, Eva Conover, Fix-it Pass to Cane Wash, Justensen Flats access route, and the Devils Racetrack.” These segments also apply to all references to the “four routes” left “conditionally open” in the Sid’s Mountain WSA on pages: 3, 15, 17, 24, 25, 59, 67, 68, and 82 of the EA.

5. Page 1, BACKGROUND, 1st paragraph, 3rd sentence: Replace “limited to existing roads and trails” with “limited to designated roads and trails”.

6. Map 1.2 – OHV Categories: The map has been modified to show the OHV Category of Seasonal Limitations on public lands east of Highway 10, as per the 1991 San Rafael Resource Management Plan.

7. Page 6, 1st paragraph, 2nd sentence: Add “Non-native Invasive Species”.

EXAMPLE 3 – *Incorporating a discussion of changes into Chapter 5 of the revised EA.***Public Notice and Availability** -

Notice of pending EA was provided on the Electronic Notification Bulletin Board (ENBB) as part of the public involvement process on June 21, 1999 and updated in June 2001. Additionally, public Notification letters were sent out November 2001 and February 2002 as a part of this process.

This assessment was sent out for public comment on August 12, 2002. A total of eleven comment letters were received. All comment letters received during the 30-day comment period were reviewed and considered. Comments that presented new data or addressed the adequacy of the document, the alternatives, or the analysis are summarized below (along with where the changes can be referenced in the document):

- Clarification on human use of the Kanab area - p. 1.
- Clarification of Public Law 106-113 provisions - p. 1.
- Revised discussion on lands with wilderness characteristics - p. 3.
- Added economics discussion - pp. 3, 4.
- Added general wildlife discussion - pp. 4-6.
- Added biological soil crusts discussion - p. 7.
- Added Kane County General Plan compliance citation - p. 7.
- Updated the list of Federal, state and local laws, regulations which the alternatives are in compliance with - p. 8.
- Further discussion on “No Grazing” alternative - p. 9.
- Added discussion on Rangeland Health Evaluation Sites - p. 14.
- Added reference to U.S. Fish & Wildlife Service concurrence letter - pp. 30, 31.
- Revised discussion of impacts to Mexican spotted owl under Proposed Action - p. 31.

There were many comments which, although not required to be addressed, are clarified in Attachment 5. Comments expressing personal opinions or that had no specific relevance to the adequacy or accuracy of the EA were considered but are not responded to directly.

EXAMPLE 4 – *Incorporating the “Response to Comments” into the revised EA as an Attachment.*

PUBLIC COMMENTS AND RESPONSES

This section summarizes comments received from individuals, organizations, and government agencies during the comment period for this EA. The comments are organized into two categories: biological resources and wilderness concern areas.

A. Biological Resources

1. Comment: BLM must not manage for potentially suitable habitat of willow flycatchers due to the Ninth Circuit Ruling, *Ezra and Bloomfield*.

Response: The above-referenced court ruling addresses U.S. Fish and Wildlife Service’s issuance of an “Incidental Take Statement” under Section 7(b)(3) of the Endangered Species Act (ESA) for various listed species which were not presently known to occur in the area under analysis. This court ruling does not address BLM’s authority to manage potential habitat under the Federal Land Policy and Management Act of 1976 or Section (a)(1) of the ESA.

2. Comment: Commenter opposes a change in utilization level from “moderate” to “low” use.

Response: The moderate use category ranges from 40 to 60% - no change in use category would occur under the proposed action.

3. Comment: The East Zion HMP directed the BLM to fence parts of the Virgin River in the Barracks Point Allotment, implying that livestock access the river from that allotment. Therefore, why doesn’t Table 2 include any riparian evaluations for Barracks Point?

Response: The boundary for the Barracks Point Allotment is the rim of the canyon - there are large cliffs barring access into the canyon. Thus, the East Fork of the Virgin River is not accessible from this allotment.

4. Comment: BLM should determine the productivity of these allotments as it pertains to the needs of wildlife and livestock.

Response: As discussed on page 4 of the EA, wildlife have been allotted AUMs in each of the allotments analyzed in this document. The standards and guidelines assessments addressed ecological condition and productivity, as well as the ability of each site to produce forage. An interdisciplinary team evaluated this based on the allocated AUMs for livestock and wildlife. The team reviewed the data collected and determined there was no issue pertaining to productivity.

B. Wilderness Concern Areas

1. Comment: The EA should not have included a discussion on citizen’s wilderness proposal areas because these areas have no legal standing.

Response: Wilderness proposal areas were discussed in “Issues Considered But Not Addressed Further” in the EA that went out for public review/comment in August 2002. An “issue” is a potential impact on a resource or value that is brought forward by an individual, organization, or agency – it does not need to have legal standing to be considered and/or addressed. The discussion on these areas has been revised in this EA to explain the status of citizen’s wilderness proposal areas.

CHAPTER 10

FINDINGS OF NO SIGNIFICANT IMPACT AND DECISION RECORDS

The Finding of No Significant Impact (FONSI) is a document that explains the reasons why an action will not have a significant effect on the human environment and, why, therefore, an EIS will not be required (40 CFR 1508.13). The FONSI must succinctly state the reasons for deciding that the action will have no significant environmental effects (40 CFR 1508.13, Questions 37a, CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981). The FONSI must note any other relevant environmental documents related to the findings, and must be signed and dated by the decision-maker (40 CFR 1501.7(a)(5), 40 CFR 1508.13). The FONSI is not the authorizing document for the action: the decision record is the authorizing document.

While the NEPA does not require a specific decision document regarding actions for which an EA has been completed, the BLM has chosen to use the Decision Record (DR) to document the decision regarding the action for which the EA was completed.

Decisions are documented in accordance with program-specific requirements. In the absence of detailed program-specific requirements on the content or format of FONSI and DRs, the following guidance should be used for documenting decisions which are analyzed in an EA. The FONSI must either be attached to the EA or incorporate the EA by reference, and may be attached to the DR.

There are two situations when a FONSI is prepared:

1. EA analysis shows that the action would have no significant effects.
2. EA analysis shows that the action would have no significant effects beyond those already analyzed in an EIS to which the EA is tiered. You may find that your action has significant effects and still reach a FONSI, provided that those significant effects were fully analyzed in the EIS to which your EA tiered. In this case, state in the FONSI that there are no significant impacts beyond those analyzed in the EIS to which this EA is tiered.

Some FONSI must be made available for a 30-day public review before the determination of whether to prepare an EIS (40 CFR 1501.4 (e)(2); also see 40 CFR 1501.4 (e)(1)). Public review is necessary if or when:

1. The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to Sec. 1507.3 (see DM 516 Chapter 11.8 Major Actions Requiring an EIS) or
2. The nature of the proposed action is one without precedent (such as unknown technology or controversy over the nature of the impacts).

Three formats for the FONSI and attached DRs are provided below. Templates and examples for the FONSI and DR must be modified on a case-by-case basis as each action should have its own individual rationale based on the analysis in the EA for the action.

UNSIGNED FONSI FORMAT

As stated above, the CEQ Guidelines (40 CFR 1501.4 (e)) require that an agency make available a FONSI to the public for review in certain limited circumstances.

Therefore an unsigned FONSI should be released with an EA when the EA is made available for public comment. The unsigned FONSI is typically a simple statement accompanying the EA. It allows the public to comment on the significance of the impacts analyzed in the EA.

The unsigned FONSI can be placed on the inside front cover of the document or can be a separate sheet preceding the title page of the EA.

The examples are not intended to provide “boiler-plate” language for specific NEPA decision documents.

SIGNED FONSI FORMATS

SHORT FORMAT

A shorter version of the FONSI can be completed for those EAs that analyze actions:

- that are straightforward with few issues
- that have generated little public interest or controversy
- for which there is little potential for litigation
- for which a comment period is not required, or
- if a comment period has been provided, no letters contesting the adequacy or accuracy of the information in the EA have been submitted by the public.

The short-format FONSI may be utilized with both long and short-form EAs. It is appropriate to use the short-format FONSI following preparation of a long-form EA where little public interest was expressed during the comment period on the EA.

The example short form FONSI contains a pre-formulated FONSI statement, the signature of the Authorized Officer and the date.

A template is provided below for preparation of an “Unsigned FONSI.”

A template and example of a “Short Format” have been provided below.

LONG FORMAT

Use the “Long Format” FONSI format for EAs that analyze actions:

- that are complex (i.e. issues and multiple alternatives)
- that have generated substantial public interest or controversy
- for which there is a moderate or high potential for litigation
- for which comments question the adequacy of the EA

A template and example of a “Long Format” have been provided below.

The FONSI must contain enough information to be a “stand-alone” document. The FONSI and DR are appealable, not the EA. The EA contains the analysis that supports the FONSI and DR. Provide a brief, clearly written, response to all sections of the format. Do not bring forth information, data, or analysis in the FONSI that is not supported in the EA.

A Decision Record template is provided below.

There should be no new information or compliance and/or monitoring requirements in the FONSI or DR that are not discussed and analyzed in the EA. In addition, only mitigation that has been brought forward and analyzed in the EA shall be carried forward as stipulations in the DR. Terms and conditions discussed in the FONSI or DR also must be discussed in or attached to the EA and must be either standard operating procedures or mitigation measures identified in the EA.

Use the appropriate appeals language as per resource program direction. A sample of appeals language for an immediately implementable (full-force-and-effect) and stayable decision are provided. Appendix 8 outlines protest and appeal provisions.

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UNSIGNED FONSI TEMPLATE

FINDING OF NO SIGNIFICANT IMPACT

ENVIRONMENTAL ASSESSMENT

(NEPA Number)

(Project Name)

This unsigned FONSI and the attached EA (insert NEPA number here) for the (insert project name here) are available for public review and comment for 30 days beginning on (insert date here).

Based on the analysis of potential environmental impacts in the attached EA and consideration of the significance criteria in 40 CFR 1508.27, I have determined that with applicable mitigating measures, the (insert applicable alternatives) would not result in significant impacts on the human environment. An environmental impact statement (EIS) is not required.

The decision to approve or deny the above alternatives and if appropriate a signed FONSI with rationale, will be released after consideration of public comments and completion of the EA.

SHORT FORM FONSI TEMPLATE

NOTE: Follow italicized instructions and delete this and all italicized instructions.

To delete the text boxes, place the curser in the text box, click the left mouse button, move the curser to near the upper center line circle of the box; when the crossing arrows appear click the left mouse button to highlight the box and delete the box by pressing delete or clicking on edit, then cut. Short Format FONSI/DRs can be completed for those EAs that analyze actions:

- that are straightforward with few issues*
- that have generated little public interest or controversy*
- for which there is little potential for litigation*
- for which a comment period is not required, or*
- if a comment period has been provided, no letters contesting the adequacy or accuracy of the information in the EA have been submitted by the public.*

The short-format FONSI may be utilized with both long- and short-form EAs. It is appropriate to use the short-format FONSI following preparation of a long-form EA where little public interest was expressed during the comment period on the EA.

FINDING OF NO SIGNIFICANT IMPACT

Environmental Assessment

NEPA Number

Project Name

Based on the analysis of potential environmental impacts contained in the (referenced or attached) environmental assessment, and considering the significance criteria in 40 CFR 1508.27, I have determined that _____ will not have a significant effect on the human environment. An environmental impact statement is therefore not required.

If unavoidable significant impacts are identified in the EA, do not sign a FONSI. You must reject the proposal or publish a Notice of Intent to prepare an EIS. If the EA is tiered to an EIS, the FONSI should state that: "I have determined that state alternatives which apply will not have a significant effect on the human environment other than those already analyzed in the XYZ EIS"

Authorized Officer

Date

FINDING OF NO SIGNIFICANT IMPACT

Right-of-Way for Ma Bell Telephone Company Line to Triple-X Ranch

EA-UT-045-03

UTU-44444

FONSI: Based on the analysis of potential environmental impacts contained in the attached environmental assessment (EA), and considering the significance criteria in 40 CFR 1508.27, I have determined that the action will not have a significant effect on the human environment. An environmental impact statement is therefore not required.

/s/ J.C. Manager

4/11/09

Authorized Officer

Date

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LONG FORM FONSI TEMPLATE

FINDING OF NO SIGNIFICANT IMPACT

Environmental Assessment

NEPA Number

Project Name

INTRODUCTION:

The Bureau of Land Management (BLM) has conducted an environmental analysis (NEPA Number) for a proposed action to address _____ in the _____ area in _____ County. The project would (*Briefly identify and describe the selected alternative.* The underlying need for the proposal would be met while accomplishing the following objectives (*this is derived from Section 1.4 of the EA Template under the Purpose for the Proposed Action*):

- 1.
- 2.
3. etc

The _____ project area (*Describe area in terms of size and location and any special significance about the project area*)....EA#_____ is attached or EA #_____, available at the _____ Field Office, is incorporated by reference for this Finding of No Significant Impact (FONSI). A no action alternative and _____ action alternatives were analyzed in the EA.

FINDING OF NO SIGNIFICANT IMPACT:

Based upon a review of the EA and the supporting documents, I have determined that the project is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and do not exceed those effects described in the _____ RMP/FEIS. Therefore, an environmental impact statement is not needed.

This finding is based on the context and intensity of the project as described:

Context: (*This means that significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality*). **EXAMPLE:** “The project is a site-specific action directly involving approximately _____ acres of BLM administered land that by itself does not have international, national, regional, or state-wide importance.” (**NOTE:** *change the example language to fit the specific situation.*) *Consideration of context should relate back to the cumulative impact section of the EA.*

Intensity: (*Intensity refers to the severity of the impact.*) The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into resources and issues considered (includes supplemental authorities Appendix 1 H-1790-1) and supplemental Instruction Memorandum, Acts, regulations and Executive Orders.

The following have been considered in evaluating intensity for this proposal:

1. **Impacts may be both beneficial and adverse.** *EXAMPLE:* “The proposed action would impact resources as described in the EA. Mitigating measures to reduce impacts to _____ were incorporated in the design of the action alternatives. None of the environmental effects discussed in detail in the EA and associated appendices are considered significant, nor do the effects exceed those described in the _____ FEIS.” (*NOTE: Change the example language to tie back to the issues driving the EA and identified during internal or public scoping as listed in Chapter 1 of your EA. Describe how the impacts to these resources may be both beneficial and adverse as appropriate to your project.*)
2. **The degree to which the selected alternative will affect public health or safety.** “The proposed action is designed to...” (*As appropriate to your project, describe any effects on public health or safety either positively or negatively, and any mitigation that will be applied, as necessary. If an issue, this information should be in the EA and merely summarized here.*)
3. **Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.** *EXAMPLE:* “The historic and cultural resources of the area have been inventoried and potential impacts mitigated in the design of the selected alternative. The following components of the Human Environment and Resource Issues are not affected because they are not present in the project area. (*List as appropriate. Refer back to the rationale as listed in the ID Team in Appendix A of the EA Template and the Identification of Issues in Chapter 1 of the EA.*) In addition, the following components of the Human Environment and Resource Issues, although present, would not be affected by this proposed action for the reasons listed in Appendix A of the EA. _____ components of the Human Environment and Resource Issues were analyzed in detail in Chapter 4. None of these would be significantly impacted because...” (*Include a brief summary of the impact conclusion.*)
4. **The degree to which the effects on the quality of the human environment are likely to be highly controversial.** *This should be considered in terms of scientific controversy – not political controversy. If it is not scientifically controversial, then so state and provide a rationale.* *EXAMPLE:* “There is no scientific controversy over the nature of the impacts.”
5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** *EXAMPLE:* “The project is not unique or unusual. The BLM has experience implementing similar actions in similar areas. The environmental effects to the human environment are fully analyzed in the EA. There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks.” (*Again, potential language, use any of the above reasons, if appropriate.*)

6. **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** *EXAMPLE:* “The actions considered in the selected alternative were considered by the interdisciplinary team within the context of past, present, and reasonably foreseeable future actions. Significant cumulative effects are not predicted. A complete analysis of the direct, indirect, and cumulative effects of the selected alternative and all other alternatives is described in Chapter 4 of the EA.” *(Cite relevant language from the EA).*
7. **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership.** *EXAMPLE:* “The interdisciplinary team evaluated the possible actions in context of past, present and reasonably foreseeable actions. Significant cumulative effects are not predicted. A complete disclosure of the effects of the project is contained in Chapter 4 of the EA.” *(This is potential language that can be used. NOTE: Significance cannot be avoided by terming an action temporary or breaking it down into small parts.)*
8. **The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.** *EXAMPLE:* “The project will not adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places, nor will it cause loss or destruction of significant scientific, cultural, or historical resources. A cultural inventory has been completed for the proposed action, and (no cultural resources were found) or (consultation with SHPO has been completed in accordance with Section 106 of the NHPA and they have concurred with a “no adverse effect” on cultural resources), etc.” *(If SHPO has concurred with BLM’s findings, attach the SHPO concurrence letter as an Appendix in the EA. Refer to the Appendix in the EA here if this is the case.)*
9. **The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on BLM’s sensitive species list.** *EXAMPLE:* “Mitigating measures to reduce impacts to wildlife and fisheries have been incorporated into the design of the action alternatives. Although ____ listed species occupy habitat (or/and ____ proposed to be listed species, or/and ____ species on BLM’s sensitive species list) within the project boundary, it has been determined that they will not be affected because . . . *(Give reasons and appropriate mitigation measures)*. No other threatened or endangered plants or animals are known to occur in the area. Section 7 ESA Consultation was done ____ (date) ____, and the USF&WS concurred with BLM’s determination on ____ (date) ____.” *(NOTE: Use or add to this potential language as appropriate.)*

- 10. Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements. *EXAMPLE:*** “The project does not violate any known federal, state, local or tribal law or requirement imposed for the protection of the environment. State, local, and tribal interests were given the opportunity to participate in the environmental analysis process. Furthermore, letters were sent to ____ Native American tribes concerning consulting party status, and there was no response from any of the tribes. Follow up phone calls were initiated with the tribes, and it was concluded and documented that there was no interest in this project by those tribes. In addition, the project is consistent with applicable land management plans, policies, and programs.” (***NOTE:*** Use this language or add to this language as appropriate).

Authorized Officer

Date

Finding of No Significant Impact
Santa Clara Pipeline and City of St. George Wells
DOI-BLM-UT-C010-2009-0089
UTU-66666

INTRODUCTION

The Bureau of Land Management, St. George Field Office, and its partners listed below have conducted an environmental analysis for a proposed action related to implementation of the Shivwits Band of the Paiute Indian Tribe of Utah Water Rights Settlement Act (Settlement Act). The Settlement Act was signed into law (*Public Law* 106-263 114 Stat. 737) on August 18, 2000, thereby ratifying and confirming the water right of the Shivwits Band vis-à-vis several non-Indian settling parties in the Santa Clara River Basin of Washington County, Utah. The terms of the water settlement are set forth in detail in three agreements, one of them being the Santa Clara Project Agreement, executed by the settling parties in January, 2001. Among other things, these agreements provide for the settlement of competing claims to water in the Santa Clara River system. Prior to this settlement, water rights claims for this system were being adjudicated through the state administrative and judicial systems, to eventually be approved by a final decree of the Utah courts.

The Washington County Water Conservancy District (Conservancy District) has applied for a right-of-way under the Federal Land Policy and Management Act (FLPMA) across public lands administered by the Bureau of Land Management's (BLM) St. George Field Office along the Santa Clara River. The right-of-way would be used to construct and operate the Santa Clara Project pressurized pipeline (Pipeline Project) from Gunlock Reservoir to the boundary of the Shivwits Indian Reservation (Shivwits Reservation). The Conservancy District has also applied for a right-of-way from the Bureau of Indian Affairs' Phoenix Area Office, acting at the request of the Shivwits Band of the Paiute Indian Tribe (Shivwits Band), to construct and operate the Pipeline Project across the Reservation to Ivins Reservoir.

The City of St. George has applied for rights-of-way to develop new water wells and associated delivery pipelines and facilities in the Gunlock well field (Well Project), pursuant to the Settlement Act. Two of the wells would be developed on public lands administered by BLM; a third on lands administered by the State of Utah, Division of Parks and Recreation. Since the proposed Well Project is integrally related to the Pipeline Project, it was analyzed as a connected action in Environmental Assessment (EA), UT-045-98-02, jointly prepared by BLM, BIA, the Shivwits Band, and the Conservancy District to consider the effects to the human environment of the two projects, consistent with the mandates of the federal National Environmental Policy Act (NEPA).

The Pipeline Project will be constructed and operated by the Conservancy District and funded through the multi-jurisdictional Virgin River Resource Management and Recovery Program (Virgin River Program). Approximately 8.5 miles of pressurized pipeline will be installed within existing, previously disturbed rights-of-way along the Gunlock Highway, between Gunlock Reservoir and Winsor Dam (Winsor (Shem) Diversion), on the Reservation. From that point, the pipeline will be buried in the existing roadway used for maintenance of the Winsor irrigation canal, following an easterly route (away from the River) to Ivins Reservoir.

Three take-out valves will be installed on the pipeline to allow the release of 3 cfs to the Santa Clara River channel: the first would be at the base of Gunlock Reservoir; the second at a location 2.35 miles downstream, and the third on the Reservation, below Winsor Dam.

The Pipeline Project will be operated to provide water to the parties as outlined in the Santa Clara Project Agreement. Irrigation releases formerly made from Gunlock Reservoir into the Santa Clara River channel will now be carried in the pressurized pipeline to Ivins Reservoir. The release of 3 cfs of year-long flows to the stream channel will be made from the take-out valve at the base of Gunlock Reservoir, unless monitoring data indicated the need to use either or all of the downstream release points. The Settlement Act provides for the Shivwits Band to identify a total of four release points along the pipeline to receive the Band's water right. To date, the Band has only identified a release point below Winsor Dam. An Operation, Maintenance, Repair and Replacement Plan will be developed by the Conservancy District, the Shivwits Band and others for long-term operation of the Pipeline Project. Adaptive management strategies related to the 3 cfs conservation flow releases may be recommended by the Virgin River Program and the Virgin Spinedace Conservation Team.

The Well Project will develop three new culinary wells (two on BLM-administered public lands, one on lands administered by the State of Utah), associated delivery pipe lines, pump houses, and a short power distribution line. Well and pipeline planning maximized the use of previously disturbed rights-of-way. The delivery pipeline will parallel the south side of Gunlock Highway, connecting with an existing line approximately 3.5 miles south of Gunlock Reservoir. The City will decommission its existing hydroelectric power plant, located south of the Reservoir. The new wells would be pumped during 8 months of the year, generally the spring, summer, and fall months, to provide supplemental water to satisfy the City's legal obligations under the Settlement Act and meet projected water user demands.

The EA considered two alternatives: the No Action Alternative and the Proposed Action, which is the alternative recommended by the cooperating parties.

PLAN CONFORMANCE

The action is in conformance with multiple management objectives and decisions of the St. George Field Office Record of Decision and Resource Management Plan, approved in March 1999. Specific decisions include those from Riparian Resource Management, RP-01, pp 2-12, etc.

FINDING OF NO SIGNIFICANT IMPACT

Based upon a review of the EA and the supporting documents, I have determined that the project is not a major federal action and will not have a significant effect on the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity, as defined at 40 CFR 1508.27 and do not exceed those effects as described in the St. George Field Office Proposed RMP/FEIS (1998). Therefore, an environmental impact statement is not required. This finding is based on the context and intensity of the project as described below.

Context:

The project is a site-specific action directly involving 15 acres of BLM administered public land that does not in and of itself have international, national, regional, or state-wide importance. The Washington County Water Conservancy District (Conservancy District) has applied for a right-of-way under the Federal Land Policy and Management Act (FLPMA) across public lands administered by the Bureau of Land Management's (BLM) St. George Field Office along the Santa Clara River. The right-of-way would be used to construct and operate the Santa Clara Project pressurized pipeline (Pipeline Project) from Gunlock Reservoir to the boundary of the Shivwits Indian Reservation (Shivwits Reservation). The Conservancy District has also applied for a right-of-way from the Bureau of Indian Affairs' Phoenix Area Office, acting at the request of the Shivwits Band of the Paiute Indian Tribe (Shivwits Band), to construct and operate the Pipeline Project across the Reservation to Ivins Reservoir.

Intensity:

The following discussion is organized around the 10 Significance Criteria described at 40 CFR 1508.27. The following have been considered in evaluating intensity for this proposal:

1. Impacts that may be both beneficial and adverse:

The beneficial effects of the Pipeline Project include the conservation of water in the Santa Clara River system to 1) settle water rights claims pursuant to the Settlement Act; and 2) release sufficient water from Gunlock Reservoir to provide 3 cfs in the Santa Clara River immediately downstream of Gunlock Reservoir to further conservation strategies for the benefit of Virgin Spinedace. The beneficial effects of the Well Project include providing the City with supplemental water to meet projected user demand and its legal obligations to the Shivwits Band, pursuant to the Settlement Act.

Adverse effects include minor impacts to soils, vegetation, wildlife, and visual resources that will occur temporarily during construction of the Proposed Action. Long term effects would be limited in scope.

2. Degree of effect on public health and safety:

The BLM, BIA, and the Shivwits Band have selected the Proposed Action, comprised of the Pipeline Project and the Well Project, as the environmentally preferred alternative. The Proposed Action achieves the balance of resource protection and beneficial uses of the human environment envisioned by the national environmental policy.

Without the Pipeline Project and Well Project (the No Action Alternative), water would not be conserved to satisfy the Settlement Agreement or provide a minimum of 3 cfs of year-round, in-stream flows to enhance Virgin Spinedace habitat and populations. Seasonal dewatering of the Santa Clara River between Gunlock Reservoir and the Shivwits Reservation would continue to impact riparian and aquatic habitat, precluding the re-establishment of native fish populations in that portion of the river. The No Action Alternative would not satisfy many of the criteria of Section 101 of NEPA.

The Pipeline Project will conserve and deliver a portion of the water right negotiated for the Shivwits Band through the Settlement Act. With an assured water right, the Band can better provide for the health and safety needs like fire protection and community infrastructure expansion, as well as pursue economic development projects that will likely improve the low-income status of Band members. Environmental commitments as part of Pipeline Project will minimize any public safety effects during project construction and operation.

The Well Project will assist the City to remedy potential municipal water shortages that could impact public health and safety. Municipal reserves for fire protection are critically low, due to current long-term drought conditions; supplemental water obtained through the Proposed Action could help remedy this public safety issue for the City. Environmental commitments as part of Well Project will minimize any public safety effects during construction activities.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas:

There are no prime farmlands or wild and scenic rivers in the project area. As described in the EA, indirect impacts to cultural resources on the Reservation were identified for the preferred alternative. Monitoring and environmental commitments included in the Proposed Action will be implemented during project construction to minimize the potential for adverse impacts to heritage resources. Environmental commitments integral to the preferred alternative will also lessen adverse effects to Gunlock State Park lands, managed by the State of Utah, Division of Parks and Recreation and to the Santa Clara/Gunlock Area of Critical Environmental Concern, designated by BLM.

4. Degree to which the possible effects on the quality of the human environment are likely to be highly controversial:

Public input regarding the Proposed Action has been solicited during an extensive project planning process, initiated more than 8 years ago. Representatives of BLM, BIA, the Shivwits Band, the U.S. Fish and Wildlife Service, the U.S. Geological Survey, the Utah Division of Water Resources, the Utah State Engineer, the City of St. George, academic institutions, water users along the Santa Clara River, and the Conservancy District met on a regular basis to evaluate options to settle water rights for the Santa Clara River system and assist the recovery of the Virgin Spinedace.

The EA was released for a 30-day public review and comment period, which ended on December 2, 2002, during which five written comments were received, one from a member of the general public, the remainder from state and federal governmental entities. The comments generally recognized that the Proposed Action offered important benefits to natural resources and social benefits to the Shivwits Band and the other water users of the Santa Clara River.

Concerns were raised about the monitoring of project-specific effects on riparian habitats and groundwater levels. Several comments concerned about the effects of livestock grazing and Off-Highway Motorized Vehicle uses along the Santa Clara River, issues that are unrelated to, and therefore, outside the scope of the current project. Based on the number and content of the comments received from the public, the effects on the quality of the human environment are not considered highly controversial.

5. Degree to which the possible effects on the quality of the human environment are highly uncertain or involve unique or unknown risk.

No highly uncertain or unknown risks to the human environment were identified during analysis of the preferred alternative.

6. Degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration:

The preferred alternative neither establishes a precedent for future BLM actions with significant effects nor represents a decision in principle about a future consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts:

No individually or cumulatively significant impacts were identified for the preferred alternative. Any adverse impacts identified for the preferred alternative, in conjunction with any adverse impacts of other past, present, or reasonably foreseeable future actions will result in negligible to moderate impacts to natural and cultural resources.

8. Degree to which the action may adversely affect district, sites, highways, structures, or objects listed on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources:

An intensive archeological inventory to identify districts, sites, or other properties eligible for listing to or included on the National Register of Historic Places was completed for this preferred alternative. The investigations satisfied the Secretary of the Interior's Standards and Guidelines for the identification of historic properties. No historic properties were identified within the area of potential direct effects; three properties on the Reservation were located where indirect effects are possible. On-site monitoring of construction activities by qualified archeologists provided by BLM or BIA and monitoring of construction by tribal representatives from the Shivwits Band will minimize the potential for adverse effects to heritage resources.

The Utah State Historic Preservation Officer has concurred with a determination of "No Effect" to historic properties, when conducted with monitoring commitments, for the preferred alternative (Letter dated Nov. 14, 2002).

9. Degree to which the action may adversely affect an endangered or threatened species or its critical habitat:

The U.S. Fish and Wildlife Service concurred with a determination that the preferred alternative is “not likely to adversely affect” endangered or threatened species and critical habitat (Letter dated Dec. 23, 2002). In order to minimize the potential for adverse effect on the federally listed endangered Southwestern willow flycatcher (*Empidonax traillii extimus*), project construction activities will not take place between May 1-September 1 between Gunlock Reservoir and Winsor Diversion. Alternatively, qualified biologists will conduct field surveys for Southwestern willow flycatcher prior to the start of project construction. Based on the findings of the field surveys and an assessment of potential impacts on this species, BLM will then reinstate consultation with the U.S. Fish and Wildlife Service, under Section 7 of the Endangered Species Act.

10. Whether the action threatens a violation of federal, state, or local environmental protection law:

The preferred alternative violates no federal, state, or local environmental protection laws.

/s/ J.C. Manager

4/11/09

Authorized Officer

Date

DECISION RECORD TEMPLATE

DECISION RECORD Environmental Assessment *NEPA Number and Project Name*

Clearly and concisely state what is being decided as analyzed under selected alternative. Identify which of the alternatives analyzed in the EA is selected. Any mitigating measures which were part of the selected alternative should be included as well, and referred to as stipulations. There should be no ambiguities as to what has been decided.

Authorities: *Cite the authorities for permitting the action. EXAMPLE:* “The authority for this decision is contained in _____.”

The level of detail within the Decision Record should be appropriate to the complexity of the EA.

This DR is to be used with both the Short and Long FONSI formats.

Compliance and Monitoring: *As part of the decision, lay out what will be done in the way of compliance and future monitoring. Specify who will do what and when. This needs to be done for each Decision Record. If no monitoring is specified, explain why none is required. Explain to the public what BLM is monitoring for and what it will do with the monitoring information. An acceptable level of change should be established and identified, along with the actions to be taken if that level of change is exceeded. When there is uncertainty in implementing the proposed action, conditions that will require monitoring should be specified. For additional information refer to 43 CFR 46.145, 46.310 9d), and BLM Handbook H-1790-1 Chapter 10.*

Terms / Conditions / Stipulations: *As part of the decision, include any specific terms/conditions/stipulations which are customarily a part of an authorization. Mitigation measures which were analyzed as part of the selected alternative should be extracted from the description of the selected alternative and listed above as part of the decision. Anything included here must have been analyzed in the EA. If the list of terms, conditions and stipulations is lengthy, attach Terms and Conditions, Standard Operating Procedures (SOPs), Best Management Practices (BMPs), stipulations, etc. and refer to the EA as the source for these requirements.*

PLAN CONFORMANCE AND CONSISTENCY:

The proposed action and alternatives have been reviewed and found to be in conformance with one or more of the following BLM Land Use Plans and the associated decision(s):

(List plans. The list must include the Management Framework Plan (MFP) or Resource Management Plan (RMP) for the area in which the project is located. Cite name and approval date of the plan and provide a page reference and quote. (Refer to Section 1.5 of EA Template for exact language). Do not forget to state that the project is in conformance with the MFP, RMP or other pertinent BLM plans. List any pertinent local, state, federal, or tribal plans and explain how the decision is consistent or inconsistent with those plans. If the decision is not consistent, explain how the decision is as consistent as possible within the bounds of federal law.

Alternatives Considered: Briefly describe the other alternatives considered, and summarize the objectives and key elements of each alternative. Discuss their feasibility, legality, and any limitations on BLM’s ability to implement the alternatives. Discuss whether or not they meet the purpose and need for the action. If only the No Action Alternative was carried forward, discuss why (i.e. no issues driving another alternative, applied mitigation took care of pending issues, alternatives considered but eliminated from detailed analysis, etc.). For additional information refer to BLM Handbook H-1790-1 section 8.4.2.

Rationale for Decision: Briefly describe why the other alternatives were not selected, and summarize the objectives and key elements of each alternative. Discuss their feasibility, legality, and any limitations on BLM’s ability to implement the alternatives. Discuss whether or not they meet the purpose and need for the action. If only the No Action Alternative was carried forward, discuss why (i.e. no issues driving another alternative, applied mitigation took care of pending issues, alternatives considered but eliminated from detailed analysis, etc.).

Explain why the decision was made. Indicate that the action conforms to the existing land use plan. Discuss the public notification process and meetings, news releases, public comment period, or other forms of public outreach that have been enacted. Provide information about when the project was first listed on the ENBB and any scoping comments that were received from the public and how the public information was used to help craft the EA or draft alternatives. If no public comments were received, say so. If there were comments, state how many, summarize comments, and refer to the letter (or other document) that analyzed the comments in detail. Explain why other alternatives were not selected. Bulletize thoughts to shorten the discussion. For additional information refer to BLM Handbook H-1790-1 section 8.5.1 #4.

Protest/Appeal Language: Include the proper generic appeals language statement as per the 43 CFR Part 4, or for resource specific appeals language, cite the appropriate regulations. (**Note of Caution:** Some programs have protest periods requiring other forms of resolution prior to appeal.

Protest and Appeal language examples are provided below.
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For example, approval of applications for permit to drill (APDs) provides for a State Director review prior to appeal to the Interior Board of Land Appeals (IBLA). Also remember that planning decisions are protestable to the Director of the BLM but not appealable to IBLA.)

Authorized Officer

Date

Attachments: Map(s), Response to Comments, Errata, etc. [If there are no attachments, then delete this heading.]

EXAMPLE – for an appealable, stayable, but not a Full Force and Effect Decision or a Grazing Decision:

The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Public notification of this decision will be considered to have occurred on *(Include date that Decision was signed)*. Within 30 days of this decision, a notice of appeal must be filed in the office of the Authorized Officer at *(address of the Authorized Officer)*. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b) *(or cite applicable programmatic rules for petition for stay)*, the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the Authorized Officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the document with the Authorized Officer and/or IBLA.

EXAMPLE– Full Force and Effect (Immediately Implementable) Decision (eg. geophysical operations, rights-of-way, special recreation permits, some mineral actions and some land use permits):

This decision shall take effect immediately upon the date it is signed by the Authorized Officer *(Insert date as written below)* and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay. *(cite the program specific regulations, e.g. 43 CFR 3150.2 for appeals on oil and gas geophysical exploration.)* Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the Authorized Officer at *(address of the Authorized Officer)*. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the Authorized Officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the document with the Authorized Officer and/or IBLA.

EXAMPLE– State Director Review

Any adversely affected party that contests a decision of the authorized officer issued under the regulations contained in 43 CFR ____ may request an administrative review, before the State Director, either with or without oral presentation. Such request, including all supporting documentation, shall be filed in writing to:

Utah State Director
Utah State Office
P.O. Box 45155
Salt Lake City, Utah 84145-0155

The request for administrative review along with supporting documents must be received by the State Director within ____ business days of the date such notice of decision was received or considered to have been received. Upon request and showing of good cause, an extension for submitting supporting data may be granted by the State Director (43 CFR ____).

Any party adversely affected by the decision of the State Director after State Director review, under 43 CFR ____, of a notice of decision may appeal that decision to the Interior Board of Land Appeals pursuant to the regulations set out in 43 CFR Part 4 (43 CFR 3165.4(a)).

EXAMPLE– State Director Review

This decision may be protested or appealed under the procedures outline in BLM Handbook _____.

Applicants and permittees have the right to dispute this decision to the _____. [If the decision is from a Field Office Manager, list the District Manager. If the decision is from the District Manager, list the State Director]. The disputant must file a written request for review, setting out reasons for believing that the decision should be reconsidered. Decisions may be disputed to the next higher level of authority up to the Director of BLM. Within 30 days of the final decision of the Director of BLM regarding the disputed decision, the disputant may file a formal appeal with the Interior Board of Land Appeals (IBLA) by following the procedures in 43 CFR Part 4 E as outlined below.

Other affected persons wishing to appeal this decision may file a formal appeal to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4 E. Public notification of this decision will be considered to have occurred on *(Include date that Decision was signed)*. Within 30 days of this decision, a notice of appeal must be filed in the office of the authorized officer at (address of the authorized officer). If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer. If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b) the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the document with the authorized officer and/or IBLA.

DECISION RECORD

Santa Clara Pipeline and City of St. George Wells

DOI-BLM-UT-C010-2009-0089

UTU-66666

It is my decision to authorize a FLMPA right-of-way to the Washington County Water Conservancy District for the Santa Clara Project pressurized pipeline. This decision is contingent on the Conservancy District fulfilling applicable environmental commitments, including certain monitoring commitments described in the Proposed Action of the EA.

It is my decision to authorize a FLMPA right-of-way to the City of St. George for two well sites and associated delivery water lines, pumping facilities, and a power distribution line. This decision is contingent the City fulfilling applicable environmental commitments, including certain monitoring commitments described in the Proposed Action of the EA.

Authorities: FLMPA

Terms/Compliance/Monitoring:

Potential resource conflicts were resolved through environmental commitments integral to the Proposed Action and monitoring stipulations. These are fully described in the subject EA, which is incorporated by reference in the FONSI/DR. These commitments and stipulations were developed during project planning involving all participants in the Virgin River Recovery Program and during ongoing consultations with the Shivwits Band.

The City has also committed to provide monthly data collected from wells in the Gunlock well field, including the three new wells permitted pursuant to the Settlement Act, to the Virgin River Program, the Shivwits, Band, BLM, and BIA. These data will be provided within 10 working days of the end of each month and will include total withdrawals from each source and the corresponding water right number for that source, as assigned by the State Engineer.

Alternatives Considered:

The EA considered two alternatives: the No Action Alternative and the Proposed Action, which is the alternative recommended by the cooperating parties.

The No Action Alternative was not selected because it would not conserve water within the Santa Clara River system to settle water rights claims for the Shivwits Band and other non-Indian water users and to enhance aquatic habitat for the Virgin Spinedace and other sensitive native species.

Alternatives considered but eliminated from detailed study:

Other alternatives that were considered but eliminated from detailed study in the EA included:

- An alternative pipeline location within the Santa Clara River channel for a distance of 2 miles downstream of Gunlock Reservoir.

The above alternative would have created unacceptably high impact levels on sensitive riparian values and, therefore, was not carried forward for detailed analysis.

- An alternative engineering design that would have reduced the length of the proposed pipeline between Winsor Diversion and Ivins Reservoir.

This option was evaluated but determined not to meet the purpose and need for the Proposed Action, since it would not conserve sufficient water to meet certain resource objectives. It was also eliminated from detailed study in the EA.

Rationale for Decision:

The environmentally preferred alternative is determined by evaluation against the national environmental policy, articulated in Section 101 of NEPA and implemented through regulations, policies and guidelines issued by the Council on Environmental Quality at 40 CFR 1500.

Among other factors, the environmentally preferred alternative helps to:

- Preserve important historic, cultural, and natural aspects of our national heritage and maintain, whenever possible, an environment that supports diversity and variety of individual choices;
- Attain the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences.

The decision to grant rights-of-way to the Conservancy District and the City has been made in consideration of the enhancements to native species habitats and populations, as well as the riparian corridor along the Santa Clara River to be realized through the construction and operation of the Pipeline Project. The Pipeline Project will also result in socio-economic benefits to the Shivwits Band, the City, and non-Indian water users of the Santa Clara River system (*e.g.*, irrigation companies, municipalities, and private land owners) by assuring their water rights and delivering water through the pressurized pipeline. The Well Project will ensure that the City can satisfy current water user demands in dry years and meet future water needs for a period of time. Supplemental project water, as defined by the Settlement Act, will also be provided to the Shivwits Band through the Well Project. The Proposed Action will benefit the Shivwits Band by ensuring a sustainable water resource that could encourage long-term economic stability, growth, and community development on the Shivwits Reservation.

Appeals:

This decision shall take effect immediately upon the date it is signed by the Authorized Officer, January 10, 2006, and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay (43 CFR 2801.10(b)). Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the Authorized Officer at St. George Field Office, 345 East Riverside Drive, St. George, Utah 84770. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the Authorized Officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the document with the Authorized Officer and/or IBLA.

/s/ J.C. Manager

4/11/09

Authorized Officer

Date

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CHAPTER 11

ADMINISTRATIVE RECORDS

What is the Administrative Record?

The administrative record is the supporting documentation for the BLM's resource and case-related decisions. The record serves as the agency's evidence that its decisions comply with relevant statutory and regulatory requirements.

The BLM should begin to create the administrative record in an organized file the day the project is proposed. The Administrative Record should include environmental documents and supporting records/materials used to reach a decision. The record should be available and complete at the time the final decision is made. Most, if not all, of the record is subject to release under Freedom of Information Act (FOIA) and it is a critical part of the agency's defense in case of a challenge to the decision. Some information in the project file may not be subject to release under FOIA during preparation of the NEPA document or prior to the decision. See the FOIA coordinator for further guidance.

Environmental documents include:

- Environmental Assessments
- Finding of No Significant Impacts
- Environmental Impact Statements
- Federal Register Notices (NOI & NOA)
- Records of Decisions

Supporting records include, but are not limited to:

- Mailing lists
- Summaries of public meetings
- Documents or studies incorporated by reference
- Consultation documents
- Cost recovery forms and records

Refer to H-1790-1, Appendix 10, for additional items to be included in the Administrative Record.

Why is the Administrative Record Important?

Challenges to BLM decisions often arise from protests and appeals to agency reviewers, the Office of Hearings and Appeals (OHA), or the Interior Board of Land Appeals (IBLA). Once administrative reviews are exhausted, appellants will have the option to take the matter to federal court. Under the Administrative Procedure Act (APA), a court (or IBLA) reviews an agency's action to determine if it was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law. **The BLM's decision lives and dies based upon the adequacy of the record presented to the court (or IBLA) for review.**

"Materials in the administrative record, but not incorporated in any way into the EIS, cannot bring an otherwise defective EIS into compliance with NEPA (*Grazing Fields Farm v. Goldschmidt*, 626 F.2d 1068, 1072-73 (1st Cir. 1980); see also *National Wildlife Federation v. Marsh*, 568 F. Supp. 985, 996-97 (D.D.C. 1983) ("Of great importance to a reviewing court is the distinction to be made between the environmental impact statement and the remainder of the administrative record. . . Any substantial information pertinent to the cost benefit analysis or the analysis of alternatives found in the administrative record, but not in the environmental impact statement, would render the impact statement inadequate under NEPA."))

If it isn't in the record it didn't happen, and if the record isn't tied to the NEPA document, it doesn't help!

What should be included in the administrative record?

The project leader or the NEPA team lead must ensure that all components of the administrative record are kept in a single repository from the onset of a NEPA action. It is important to stay organized from the very beginning. At the end of the process, the record should contain all documents that were considered or relied upon by persons involved in the decision, including documents which favor alternatives not selected or express criticism of the decision made.

The Office of the Solicitor has identified in a June 27, 2006 memorandum to the Assistant Secretaries standardized guidance on compiling a Decision File and an Administrative Record (WO IM No 2006-225). In this memorandum, it states that a Decision File, and any subsequent AR presented to the court, should:

- Contain the complete “story” of the agency decision-making process, including options considered and rejected by the agency;
- Include important substantive information that was presented to, relied on, or reasonably available to the decision-maker;
- Establish that the agency complied with relevant statutory, regulatory, and agency requirements; and
- Demonstrate that the agency followed a reasoned decision-making process.

As such, the following kinds of materials should be included:

- Policy or guidance specific to the action being taken or the decision being made.
- Evidence of public involvement efforts and results including mailing lists.
- Notification, such as Federal Register notices, for public meetings and internal and external comments.
- Responses to public and agency comments.
- Summaries of public meetings and lists of attendees.
- Minutes of other related meetings.
- Drafts of analyses or documents if the drafts were used in the decision process or the drafts were circulated for external comments.
- Working drafts (not subject to FOIA).
- Attorney Client Privileged Documents (marked as such).
- Letters or memos, including emails, sent or received that are relevant to the action or decision.
- All NEPA documents and appendices made available to the public which are pertinent to the decision.
- Either copies of documents or studies incorporated into the analysis by reference, photocopies of the key pages cited, or a listing of where such documents are located and from which they can be easily retrieved.
- Resource reports and field evaluation notes prepared in support of NEPA analysis.
- Section 7 consultations and Section 106 Cultural Resource inventory documentation, excluding confidential information on specific site location.
- Interdisciplinary team checklists and related reports and recommendations.
- Evidence of tribal consultations.
- Documentation of interagency coordination.

- Applicant submitted materials (other than proprietary information).
- Records related to contractual work used in preparation of the analysis.
- Applicable interagency agreements related to the action.
- Technical information including data files, sampling results, surveys, charts, etc.
- Relevant electronic information captured as hard copy or on a floppy disk.
- Documentation of telephone calls or meetings related to the action being decided.
- Pertinent maps and photos.
- Location of relevant documents not included in the file (proprietary or excessively large).
- The Finding of No Significant Impact and all related decision documents.

Appendix 2 and Appendix 3 contain example methods of documenting phone calls and meetings.

Exclude the Following:

- Journals or personal notes, meaning an individual's notes taken at a meeting.
- Documents and materials that were not in existence at the time of the agency's decision.
- Documents associated with, but not part of, the decision-making process and decision.
- Inappropriate or unrelated notations on sticky notes.

Organization of the Administrative Record:

- When serialized case files are established (realty, minerals, SRPs, etc.), it is customary to use the case file for the entire administrative record. The files should either be maintained in chronological order or as otherwise prescribed by state and national program directives.
- Where serialized case files are not involved or where the NEPA analysis is lengthy and unusually complex, it is strongly recommended that a single NEPA file (1790) be created into which copies of all elements of the administrative record are placed as they are produced or become available.
- While the analysis is still in progress, if the file is kept at the workstation of the project leader, ensure that it is readily retrievable when the leader is absent and that a reference card in central files shows to whom the file is checked out.

For complex cases subject to appeal or litigation it is advisable to prepare an index to the administrative record. In the absence of other direction, consider using the following general categories for organizing the record and organizing chronologically within these categories:

- Scoping.
- Comments from the public and other agencies.
- Interdisciplinary team (IDT) records.
- Other internal agency communications (non-IDT).
- Draft document materials (working papers).
- Laws, regulations, and prior EISs/EAs.
- Maps and/or photos.
- Technical data.
- References (cited in the EA or as background NEPA material).

Appendix 5 contains a Reference Worksheet for documenting citations.

- Decision documents.
- Protests and responses.
- Appeals and associated IBLA / OHA orders.

How to Handle Privileged Documents and Materials:

The administrative record sometimes includes privileged materials and documents, as well as materials and documents that contain protected information. However, once the record is compiled, privileged or protected documents and materials should be removed from the record. The BLM should consult with the solicitor as to the type and the extent of the privilege(s) asserted. Be sensitive to the relevant privileges and prohibitions against disclosure, including, but not limited to, attorney-client, attorney-work product, Privacy Act, deliberative or mental processes, executive, and confidential business information. If documents and materials are determined to be privileged or protected, the index of the record must identify the documents and materials, reflect that they are being withheld, and state on what basis they are being withheld.

Common Problems to Avoid:

- Incomplete or missing information.
- Unorganized and unsecured materials in the files (thrown in a folder).
- Failure to collect materials as you go (compounded by staff turnover).
- Failure to include administrative record material from agency collaborators.
- Data in the record indicates one thing, but decisions say another.
- Use of slang, inappropriate remarks, or personal information in emails.
- E-mails without copies of attachments or full listing of recipients.
- References to large text without specifically identifying page numbers.
- Inappropriate references or references not included within the text but cited in the reference section or vice versa.
- Websites or database citations (eg State wildlife agency list of sensitive species) without page references or copies made of the appropriate material used in a reference.
- Telephone confirmations without record or explanation.

Maintenance and Disposition of Records:

- Records should be maintained until BLM issues the final decision and time for all protests, appeals, and litigation has expired. There are no specific time frames; however under APA the 6 year statute of limitations generally applies.
- The complete NEPA file may then be maintained under the appropriate records disposition schedule or split up among appropriate records such as grazing administration files, project files, and/or central records under the appropriate subject function codes.

Sierra Club v. Slater, 120 F.3d 623 (6th Cir. 1997). As we have said, NEPA does not authorize a private right of action...The Administrative Procedures Act, however, provides for judicial review of agency action... We have long recognized that federal courts have jurisdiction over NEPA challenges pursuant to the APA... Like NEPA, the APA does not contain a specific limitations period. Numerous courts have held, however, that a complaint under the APA for review of an agency action is a 'civil action' within the meaning of section 2401 (a) [6 year statute of limitations, 28 USC 2401 (a)].

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CHAPTER 12

DEALING WITH EMERGENCIES

Wildfire Suppression Actions

You must take immediate action to manage all wildfires consistent with land use and fire management plans. The BLM Washington Office will consult with the OEPC on an annual basis to discuss anticipated fire suppression activities for the upcoming fire season and any changes in fire suppression standards and operating procedures. The OEPC will consult with the CEQ, as appropriate. Prescribed fire projects are not considered wildfire suppression activities, and must undergo normal NEPA procedures (40 CFR 1506.11).

Emergency Actions other than Wildfire Suppression

Utah Policy

This policy is based on the relevant guidance provided in 43 CFR 46.150, 40 CFR 1506.11, H-1790-1 (Section 2.3), and Office of Environmental Policy and Compliance (OEPC) Environmental Statement Memorandum (ESM) 97-3. Refer to guidance within this Chapter.

In the event of an emergency situation, a bureau will immediately take any necessary action to prevent or reduce risks to public health or safety or important resources. If the agency action has significant environmental impacts, a bureau will immediately consult with its Assistant Secretary, the Solicitor, OEPC, and (together with OEPC) CEQ about compliance with NEPA. (See ESM 97-3). Upon learning of the emergency situation, the OEPC will immediately notify CEQ. During follow-up activities OEPC and the bureau will jointly be responsible for consulting with CEQ. Paragraph 1506.11 applies only to the emergency and not to any related recovery actions after the emergency has passed. If the agency action does not have significant environmental impacts, the BLM will consult with OEPC to consider any appropriate action.

An “Emergency” is generally defined as an unanticipated and imminent threat to human health and safety or risk of loss of high value resources. Failure to plan or the need to meet an applicant’s timeframe does not constitute an emergency.

The NEPA provides a procedure for dealing with such emergencies. The CEQ guidance for implementation of NEPA and relevant BLM and DOI guidance for dealing with emergencies applies only to those actions that may create significant environmental impacts (i.e. EIS level actions). Even in these cases, it is clear that agencies are not required to consult with or obtain approval from CEQ prior to taking actions to meet an emergency; however, they would, if it is at all possible and, if it is not possible, they should contact CEQ as soon as feasible.

In Utah, if an emergency is encountered the FO Manager should first take any action necessary to protect human health and safety and high value resources. If possible, the FO Manager should contact the Branch Chief for Planning and Environmental Coordination (P&EC) and provide a briefing prior to taking action.

Even though 40 CFR 1506.11, Emergencies, requires contact with CEQ only when it is necessary to take an emergency action with significant environmental impact; H-1790-1, 2.3.2.2 requires that WO 210 be contacted to outline subsequent actions other than those that can be Categorically Excluded. After the Branch Chief P&EC is contacted, they will then advise the State Director, and with State Director concurrence will contact the Washington Office Planning and Environmental Support Group (WO-210) to request that WO contact the Assistant Secretary for Lands and Mineral Resources. If appropriate, the Washington Office, OEPC and the Assistant Secretary will then contact CEQ to discuss options for further NEPA compliance. The BLM WO-210 will expedite the necessary consultation with the Office of the Solicitor, the OEPC and the CEQ for those emergency actions anticipated to have significant environmental impacts.

When time permits, actions that are not categorically excluded and that are not expected to have significant environmental effects can be analyzed with an environmental assessment. We recommend that you use the techniques described throughout this handbook to prepare a focused, concise, and timely environmental assessment:

- narrowly focus the purpose and need.
- limit alternatives to those that would achieve the purpose and need.
- if there is consensus about the proposed action, do not analyze in detail the no action or other action alternatives.
- tailor public involvement and use informal scoping (telephone calls, on-site discussions with affected parties) to identify issues of concern.
- limit the analysis to issues of concern.

Appropriate NEPA documents will be prepared to identify and analyze actions to be taken in order to mitigate any environmental impacts created by the emergency action.

Contacts

Utah State Director	State Director (801) 539-4010
Branch Chief for Planning and NEPA	Lauren Mermejo (801) 539-4066
Washington Office NEPA Coordinator	(Peg Sorenson) (202) 557-3564
OEPC Regional Environmental Officer	Robert Stewart (303) 445-2500

Relevant Guidance

National Environmental Policy Act (NEPA)

Emergency Actions: This provision can be invoked when emergency circumstances outside the control of the Agency make it necessary to take an action with significant environmental impact without first complying with pertinent regulations. It requires that the action proponent consult with the Council on Environmental Quality (CEQ) regarding alternative arrangements. Requests for consultation must be submitted to CEQ as soon as the need is identified. The exemption only applies to those aspects of a proposal that must continue on an emergency basis, and only applies to Federal actions with significant environmental impacts.

Lesser actions may be subject to agency NEPA procedures. Ordinarily, the failure to plan properly does not establish an emergency. 40 CFR § 1506.11.

CEQ Guidance at 40 CFR Sec. 1506.11 Emergencies.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

BLM NEPA Handbook H-1790-1

You must take immediate action to prevent or reduce risk to public health or safety or important resources. Thereafter, other than those actions that can be categorically excluded, you must contact the BLM Washington Office (WO-210) to outline subsequent actions. We recommend that you address the following factors when contacting WO-210 in the event of an emergency situation:

- nature and scope of the emergency.
- actions necessary to control the immediate effects of the emergency.
- potential adverse effects of the proposed action.
- components of the NEPA process that can be followed and that provide value to decision-making (e.g., coordination with affected agencies and the public).
- duration of the emergency.
- potential mitigation measures.

The BLM WO-210 will expedite the necessary consultation with the Office of the Solicitor, the OEPC, and the CEQ for those emergency actions anticipated to have significant environmental impacts. Once alternative arrangements have been established, the CEQ will provide documentation describing the alternative arrangements and the considerations on which they are based. During any follow-up activities, the OEPC and the BLM will jointly be responsible for consulting with the CEQ. If the BLM action is not expected to have significant environmental impacts, contact the BLM WO-210. The BLM WO-210 will consult with the OEPC to consider any appropriate action. The Web Guide provides WO-210 contact information, including non-duty hour procedures.

43 CFR 46.150 Emergency Responses

This section applies only if the Responsible Official determines that an emergency exists that makes it necessary to take urgently needed actions before preparing a NEPA analysis and documentation in accordance with the provisions in subparts D and E of this part.

(a) The Responsible Official may take those actions necessary to control the immediate impacts of the emergency that are urgently needed to mitigate harm to life, property, or important natural, cultural, or historic resources. When taking such actions, the Responsible Official shall take into account the probable environmental consequences of these actions and mitigate foreseeable adverse environmental effects to the extent practical.

(b) The Responsible Official shall document in writing the determination that an emergency exists and describe the responsive action(s) taken at the time the emergency exists. The form of that documentation is within the discretion of the Responsible Official.

(c) If the Responsible Official determines that proposed actions taken in response to an emergency, beyond actions noted in paragraph (a) of this section, are not likely to have significant environmental impacts, the Responsible Official shall document that determination in an environmental assessment and a finding of no significant impact prepared in accordance with this part, unless categorically excluded (see subpart C of this part). If the Responsible Official finds that the nature and scope of the subsequent actions related to the emergency require taking such proposed actions prior to completing an environmental assessment and a finding of no significant impact, the Responsible Official shall consult with the Office of Environmental Policy and Compliance about alternative arrangements for NEPA compliance. The Assistant Secretary, Policy Management and Budget or his/her designee may grant an alternative arrangement. Any alternative arrangement must be documented. Consultation with the Department must be coordinated through the appropriate bureau headquarters.

(d) The Department shall consult with CEQ about alternative arrangements as soon as possible if the Responsible Official determines that proposed actions, taken in response to an emergency, beyond actions noted in paragraph (a) of this section, are likely to have significant environmental impacts. The Responsible Official shall consult with appropriate bureau headquarters and the Department, about alternative arrangements as soon as the Responsible Official determines that the proposed action is likely to have a significant environmental effect. Such alternative arrangements will apply only to the proposed actions necessary to control the immediate impacts of the emergency. Other proposed actions remain subject to NEPA analysis and documentation in accordance with this part.

CHAPTER 13

APPLICANT AND THIRD-PARTY PREPARED ENVIRONMENTAL ASSESSMENTS

An applicant may submit an EA using one of three methods: 1) prepare the document himself; 2) have the document prepared by someone else chosen independently by the applicant; or 3) have a document prepared by a third party chosen by the BLM. The first two are considered “applicant prepared EAs” The third is considered a “third-party EA”. The BLM does not provide any financial assistance or form any type of contractual agreement regarding the NEPA analysis with any of these options. A Memorandum of Understanding (MOU) is recommended for third party EAs.

APPLICANT PREPARED EAs

All applicant prepared EAs are prepared for the BLM and therefore, once accepted by the agency, are BLM documents (accordingly, no private advertising or logos). BLM specialists are responsible for the accuracy of content and NEPA compliance of all EAs. Applicants may prepare an EA themselves or may hire a contractor to expedite the NEPA process (hereafter called “preparer”). Although review times for these documents may be extremely time consuming, the preparer assumes the responsibility of conducting research, gathering data, and completing the analysis necessary for preparation of the EA. The BLM may choose to enter into a Memorandum of Understanding with the applicant that specifically identifies the agency and applicant responsibilities.

The preparer must follow the procedures discussed in this NEPA Guidebook. The following information provides additional guidelines for preparing, routing, and completing an applicant prepared EA.

Additional Guidelines

Preparation

As an option, a “NEPA Tracking Checklist” may be used to document both the draft and final review of the applicant or contractor prepared EA. An example of this form is contained below. It is not the BLM’s responsibility to provide complete written sections for the preparer. Specialists should only provide the necessary baseline information so the preparer may write those sections. It is also not the BLM’s responsibility to package and analyze basic data for the preparer. It is the preparer's responsibility to come to our office and reproduce, copy, or research any additional information that they may need.

It is the BLM project lead's responsibility to provide the Preparer with a copy of this Guidebook and/or the BLM NEPA Handbook, identify team members and contacts, and coordinate scheduling and meetings.

Applicant and Consultant prepared documents may be rejected if they do not follow the format and content requirements of this Guidebook.
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Internal Review

Draft applicant-prepared EAs must be in compliance with NEPA procedures described in this Guidebook. If it does not meet the minimum standards, it will be sent back to the preparer as unacceptable for review.

If the EA is in compliance with regulations and guidelines, any Bureau specialist who noted a potential impact on the ID Team Checklist or NEPA Tracking Checklist must review the internal preliminary EA.

Specialist review is extremely important to ensure that adequate and accurate information is incorporated into the EA.

Any comments made by the applicant/proponent (if other than the preparer) on the internal draft must be submitted to the BLM project lead. Appropriate comments will be submitted to the preparer through the BLM project lead.

It is not the BLM specialist's responsibility to rewrite sections. We should provide sufficient information to allow the section to be properly completed by the preparer. Factual errors should be identified and additional sources of information should be referenced.

The BLM project lead will be responsible for evaluating and compiling the EA comments into a format easily understood by the Preparer. The BLM project lead will either meet with the preparer to review comments or send the comments to the preparer. The Bureau lead will also be responsible for answering questions from the preparer on any and all EA comments.

If comments are sent to the preparer, courtesy copies of this correspondence will also be provided to the project applicant/proponent (if different).

When the rewritten document is returned to the BLM office from the preparer, the Bureau project lead should review the document again to ensure that all comments have been addressed. Any questions or concerns should be brought to the attention of the NEPA / Environmental Coordinator.

The BLM project lead should route the final EA and the ID Team Checklist or NEPA Tracking Checklist for final signatures, along with a draft FONSI and DR (prepared by the BLM project lead). Specialists whose resources were noted as potentially impacted should state on the ID Team Checklist or NEPA Tracking Checklist that they approve of the final EA.

Once final specialist review has occurred, the NEPA/Environmental Coordinator should review the final EA. The BLM project lead will incorporate comments from the NEPA/Environmental Coordinator.

The BLM project lead is responsible for finalizing the FONSI and Decision Record, after obtaining concurrence on the EA from the NEPA/Environmental Coordinator.

THIRD-PARTY CONTRACTORS

An applicant may independently prepare an EA (Applicant Prepared) or pay a contractor selected by BLM to prepare an EA. The later is called Third-Party contracting.

Refer to the SO list of contractors who have expressed an interest in preparing NEPA documents. This is found on the Utah Intranet NEPA Library.

The use of third-party contractors to facilitate processing of proposals and applications through BLM NEPA processes is provided for under 40 CFR 1506.5 with clarification by the Council on Environmental Quality found in the “40 Questions.” Agency policy and direction is found in BLM Handbook 1790-1, Section 13.5 and WO IM 2006-011. Appendix 4 contains example letters and an MOU for streamlined Third-Party contracting for an EA.

This section summarizes the responsibilities of the BLM when using the option of third-party contractors to conduct portions of the NEPA process and in preparing environmental documents.

BLM Instruction Memorandum No. 2006-011, provides guidance regarding BLM NEPA third party contracting procedures.

The key elements of third-party contracting procedures that must be followed are:

1. The Authorized Officer shall have a Memorandum of Understanding (MOU) between the agency and the proponent, establishing the roles and responsibilities of each party (Appendix 4 for an example of a MOU). The proponent is responsible for the cost of using a third-party to prepare environmental documents. The MOU shall provide for the BLM to “actively administer the contract,” that is, “work directly with the contractor on NEPA related matters,” such as providing technical guidance in preparation of the environmental documents. The MOU shall clearly state that the BLM holds final decision authority regarding data used, analyses conducted, and document content.
2. The MOU shall serve as a contract between the BLM and the proponent and include a description of the products that the third-party would prepare, the technical standards for each product, and a schedule of product delivery.
3. The Authorized Officer shall ensure that the contractor preferred by the proponent is one that has been approved by the BLM and has submitted the required disclosure statement that specifies that the contractor has no financial or other interest in the outcome of the project, [40 CFR 1506.5(c)]. The Authorized Officer makes the final decision regarding the selected contractor.

ID TEAM NEPA TRACKING CHECKLIST

When reviewing applicant or third-party EAs, the Team Leader **may** choose to route the following ID Team NEPA Tracking Checklist to assist with systematic review and to ensure that all team members have reviewed the relevant documents. An initial indicates that the staff person has reviewed the documentation and agrees with the analysis and findings.

INSTRUCTIONS FOR THE OPTIONAL ID TEAM NEPA TRACKING CHECKLIST

GENERAL INSTRUCTIONS

If this form is used, it should be a part of the administrative record for the project. Each item of the record should be signed only by the assigned resource specialist. For example, only the Archaeologist should initial and date the sections on Cultural Resources and Native American Religious Concerns. Items may be signed by the Team Leader, NEPA Coordinator or Authorized Officer when they are acting as the assigned resource specialist.

SPECIFIC INSTRUCTIONS

Column 1 – List of Resources and Issues Considered

It is recommended that all supplemental authorities identified in Appendix 1 of the H-1790-1 NEPA Handbook be addressed. As discussed under General Instructions, the items listed may be modified as appropriate for each field office.

Column 2 – Specialist

Enter the name of the Resource Specialist responsible for the resource(s) listed.

Column 3 – Draft EA Review

Enter the date and initial after reviewing the draft EA. If the resource is not present, or not impacted, and the specialist has no additional comments to make, they may also initial and date in column 4.

Column 4 – Final Documentation Review Initial/Date

Enter the date and initial after reviewing the final NEPA document.

Final Review

After obtaining all necessary sign-offs (initials) by the Resource Specialists, route the form to the NEPA/Environmental Coordinator for review. The Authorized Officer for the proposal initials to complete the record of interdisciplinary interaction.

ID TEAM TRACKING FORM TEMPLATE

INTERDISCIPLINARY TEAM NEPA DOCUMENTATION TRACKING CHECKLIST

Project Title:

NEPA Log Number:

File/Serial Number:

Project Leader:

STAFF DOCUMENTATION REVIEW:

RESOURCE	SPECIALIST	DRAFT EA REVIEW INITIAL/DATE	FINAL DOCUMENTATION REVIEW INITIAL/DATE
FRESOURCES AND ISSUES CONSIDERED (INCLUDES SUPPLEMENTAL AUTHORITIES APPENDIX 1 H-1790-1)			
Air Quality			
Areas of Critical Environmental Concern			
BLM Natural Areas			
Cultural Resources			
Greenhouse Gas Emissions			
Environmental Justice			
Farmlands (Prime or Unique)			
Fish and Wildlife Excluding USFW Designated Species			
Floodplains			
Fuels/Fire Management			
Geology / Mineral Resources/Energy Production			
Hydrologic Conditions			
Invasive Species/Noxious Weeds			
Lands/Access			
Livestock Grazing			
Migratory Birds.			

RESOURCE	SPECIALIST	DRAFT EA REVIEW INITIAL/DATE	FINAL DOCUMENTATION REVIEW INITIAL/DATE
Native American Religious Concerns			
Paleontology			
Rangeland Health Standards			
Recreation			
Socio-Economics			
Soils			
Threatened, Endangered or Candidate Plant Species			
Threatened, Endangered or Candidate Animal Species			
Wastes (hazardous or solid)			
Water Resources/Quality (drinking/surface/ground)			
Wetlands/Riparian Zones			
Wild and Scenic Rivers			
Wilderness/WSA			
Woodland / Forestry			
Vegetation Excluding USFW Designated Species			
Visual Resources			
Wild Horses and Burros			
Areas with Wilderness Characteristics			

FINAL REVIEW:

REVIEWER TITLE AND NAME	DRAFT REVIEW INITIAL/DATE	FINAL REVIEW INITIAL/DATE
Environmental Coordinator:		
Authorized Officer:		

APPENDIX 1

CATEGORICAL EXCLUSIONS

Departmental Categorical Exclusions

43 CFR Part 46.210 (Effective Date: 6/21/05)

The following actions are CXs pursuant to 516 DM 2.3A (2). However, environmental documents will be prepared for individual actions within these CXs if any of the extraordinary circumstances listed in 516 DM 2, Appendix 2, apply.

- (a) Personnel actions and investigations and personnel services contracts.
- (b) Internal organizational changes and facility and bureau reductions and closings.
- (c) Routine financial transactions including such things as salaries and expenses, procurement contracts (e.g., in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.
- (d) Departmental legal activities including, but not limited to, such things as arrests, investigations, patents, claims, and legal opinions. This does not include bringing judicial or administrative civil or criminal enforcement actions which are outside the scope of NEPA in accordance with 40 CFR 1508.18(a).
- (e) Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.
- (f) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (e.g., limited size and magnitude or short-term effects).
- (g) Management, formulation, allocation, transfer, and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)
- (h) Legislative proposals of an administrative or technical nature (including such things as changes in authorizations for appropriations and minor boundary changes and land title transactions) or having primarily economic, social, individual, or institutional effects; and comments and reports on referrals of legislative proposals.
- (i) Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.
- (j) Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.

- (k) Hazardous fuels reduction activities using prescribed fire not to exceed 4,500 acres, and mechanical methods for crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing, not to exceed 1,000 acres. Such activities:
 - (1) Shall be limited to areas—
 - (i) In wildland-urban interface; and
 - (ii) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland-urban interface;
 - (2) Shall be identified through a collaborative framework as described in “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan;”
 - (3) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans;
 - (4) Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; and
 - (5) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and may include the sale of vegetative material if the primary purpose of the activity is hazardous fuels reduction. (Refer to the ESM Series for additional, required guidance.)
- (l) Post-fire rehabilitation activities not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds) to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities must comply with the following (Refer to the ESM Series for additional, required guidance.):
 - (1) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans;
 - (2) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and
 - (3) Shall be completed within three years following a wildland fire.

The Office of Environmental Policy and Compliance (OEPC) Environmental Statement Memorandum (ESM) O3-2 requires offices using Departmental Categorical Exclusions 1.12 and 1.13 (now k & l) regarding hazardous fuels reduction and post-fire rehabilitation actions to prepare a “Decision Memorandum” documenting the use of the categorical exclusion and documenting the Authorized Officer’s decision to implement the proposed project. IM-WO-2003-221 provides a template for preparing a decision memorandum of this kind. The template is provided in Appendix 6 of this Guidebook.

BLM Categorical Exclusions

43 CFR 46.215

The Departmental guidance at 43 CFR 46.215 requires that before any action described in the following list of categorical exclusions is used, the extraordinary circumstances must be reviewed for applicability in each case. The proposed action cannot be categorically excluded if one or more of the extraordinary circumstances apply, thus requiring either an EA or an EIS. When no extraordinary circumstances apply, the following types of Bureau actions normally do not require the preparation of an EA or EIS.

A. Fish and Wildlife

- (1) Modification of existing fences to provide improved wildlife ingress and egress.
- (2) Minor modification of water developments to improve or facilitate wildlife use (e.g., modify enclosure fence, install flood valve, or reduce ramp access angle).
- (3) Construction of perches, nesting platforms, islands, and similar structures for wildlife use.
- (4) Temporary emergency feeding of wildlife during periods of extreme adverse weather conditions.
- (5) Routine augmentations, such as fish stocking, providing no new species are introduced.
- (6) Relocation of nuisance or depredating wildlife, providing the relocation does not introduce new species into the ecosystem.
- (7) Installation of devices on existing facilities to protect animal life, such as raptor electrocution prevention devices.

B. Oil, Gas, and Geothermal Energy

- (1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands, where the subject lands are already in production.
- (2) Approval of mineral lease adjustments and transfers, including assignments and subleases.
- (3) Approval of unitization agreements, communitization agreements, drainage agreements, underground storage agreements, development contracts, or geothermal unit or participating area agreements.
- (4) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.
- (5) Approval of royalty determinations, such as royalty rate reductions.
- (6) Approval of Notices of Intent to conduct geophysical exploration of oil, gas, or geothermal, pursuant to 43 CFR 3150 or 3250, when no temporary or new road construction is proposed.

C. Forestry

- (1) Land cultivation and silvicultural activities (excluding herbicide application) in forest tree nurseries, seed orchards, and progeny test sites.
- (2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.
- (3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used, and there is no conversion of timber type or conversion of non-forest to forest land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of non-toxic big game repellent, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scions and cones.
- (4) Pre-commercial thinning and brush control using small mechanical devices.
- (5) Disposal of small amounts of miscellaneous vegetation products outside established harvest areas, such as Christmas trees, wildings, floral products (ferns, boughs, etc.), cones, seeds, and personal use firewood.
- (6) Felling, bucking, and scaling sample trees to ensure accuracy of timber cruises. Such activities:
 - (a) Shall be limited to an average of one tree per acre or less,
 - (b) Shall be limited to gas-powered chainsaws or hand tools,
 - (c) Shall not involve any road or trail construction,
 - (d) Shall not include the use of ground based equipment or other manner of timber yarding, and
 - (e) Shall be limited to the Coos Bay, Eugene, Medford, Roseburg, and Salem Districts and Lakeview District, Klamath Falls Resource Area in Oregon.
- (7) Harvesting live trees not to exceed 70 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:
 - (a) Shall not include even-aged regeneration harvests or vegetation type conversions.
 - (b) May include incidental removal of trees for landings, skid trails, and road clearing.
 - (c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract. Examples include, but are not limited to:

- (i) Removing individual trees for sawlogs, specialty products, or fuelwood.
 - (ii) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.
- (8) Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:
 - (a) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.
 - (b) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (c) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.
 - (d) For this CX, a dying tree is defined as a standing tree that has been severely damaged by forces such as fire, wind, ice, insects, or disease, and that in the judgment of an experienced forest professional or someone technically trained for the work, is likely to die within a few years. Examples include, but are not limited to:
 - (i) Harvesting a portion of a stand damaged by a wind or ice event.
 - (ii) Harvesting fire damaged trees.
- (9) Commercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than 0.5 miles of temporary road construction. Such activities:
 - (a) May include removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease;
 - (b) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.
 - (c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative

cover as soon as practicable, but at least within 10 years after the termination of the contract. Examples include, but are not limited to:

- (i) Felling and harvesting trees infested with mountain pine beetles and immediately adjacent uninfested trees to control expanding spot infestations; and
- (ii) Removing or destroying trees infested or infected with a new exotic insect or disease, such as emerald ash borer, Asian longhorned beetle, or sudden oak death pathogen.

D. Rangeland Management

- (1) Approval of transfers of grazing preference.
- (2) Placement and use of temporary (not to exceed one month) portable corrals and water troughs, providing no new road construction is needed.
- (3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.
- (4) Removal of wild horses or burros from private lands at the request of the landowner.
- (5) Processing (transporting, sorting, providing veterinary care, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.
- (6) Approval of the adoption of healthy, excess wild horses and burros.
- (7) Actions required to ensure compliance with the terms of Private Maintenance and Care agreements.
- (8) Issuance of title to adopted wild horses and burros.
- (9) Destroying old, sick, and lame wild horses and burros as an act of mercy.
- (10) Vegetation management activities, such as seeding, planting, invasive plant removal, installation of erosion control devices (e.g., mats/straw/chips), and mechanical treatments, such as crushing, piling, thinning, pruning, cutting, chipping, mulching, mowing, and prescribed fire when the activity is necessary for the management of vegetation on public lands. Such activities:
 - (a) Shall not exceed 4,500 acres per prescribed fire project and 1,000 acres for other vegetation management projects;
 - (b) Shall not be conducted in Wilderness areas or Wilderness Study Areas;
 - (c) Shall not include the use of herbicides, pesticides, biological treatments or the construction of new permanent roads or other new permanent infrastructure;
 - (d) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (e) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative

cover as soon as practicable, but at least within 10 years after the termination of the contract.

- (11) Issuance of livestock grazing permits/leases where:
 - (a) The new grazing permit/lease is consistent with the use specified on the previous permit/lease, such that
 - (i) the same kind of livestock is grazed,
 - (ii) the active use previously authorized is not exceeded, and
 - (iii) grazing does not occur more than 14 days earlier or later than as specified on the previous permit/lease, and
 - (b) The grazing allotment(s) has been assessed and evaluated and the Responsible Official has documented in a determination that the allotment(s) is
 - (i) meeting land health standards, or
 - (ii) not meeting land health standards due to factors that do not include existing livestock grazing.

E. Realty

- (1) Withdrawal extensions or modifications, which only establish a new time period and entail no changes in segregative effect or use.
- (2) Withdrawal revocations, terminations, extensions, or modifications; and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.
- (3) Withdrawal revocations, terminations, extensions, or modifications; classification terminations or modifications; or opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions (prior to implementation) are in conformance with and are covered by a Resource Management Plan/EIS (or plan amendment and EA or EIS).
- (4) Administrative conveyances from the Federal Aviation Administration (FAA) to the State of Alaska to accommodate airports on lands appropriated by the FAA prior to the enactment of the Alaska Statehood Act.
- (5) Actions taken in conveying mineral interest where there are no known mineral values in the land under Section 209(b) of the Federal Land Policy and Management Act of 1976 (FLPMA).
- (6) Resolution of class one color-of-title cases.
- (7) Issuance of recordable disclaimers of interest under Section 315 of FLPMA.
- (8) Corrections of patents and other conveyance documents under Section 316 of FLPMA and other applicable statutes.
- (9) Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.
- (10) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Right-of-way).
- (11) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA Section 302(b) leases where no new facilities or other changes are needed.
- (12) Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.

- (13) Amendments to existing rights-of-way, such as the upgrading of existing facilities, which entail no additional disturbances outside the right-of-way boundary.
- (14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.
- (15) Transfers of land or interest in land to or from other bureaus or federal agencies where current management will continue and future changes in management will be subject to the NEPA process.
- (16) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.
- (17) Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.
- (18) Temporary placement of a pipeline above ground.
- (19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.
- (20) One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

F. Solid Minerals

- (1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands where the subject lands are already in production.
- (2) Approval of mineral lease readjustments, renewals, and transfers including assignments and subleases.
- (3) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.
- (4) Approval of royalty determinations, such as royalty rate reductions and operations reporting procedures.
- (5) Determination and designation of logical mining units.
- (6) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.
- (7) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable, salable, and locatable minerals (e.g., the approved plan identifies no new surface disturbance outside the areas already identified to be disturbed).
- (8) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals (e.g., change in mining sequence or timing).
- (9) Digging of exploratory trenches for mineral materials, except in riparian areas.
- (10) Disposal of mineral materials, such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

G. Transportation

- (1) Incorporation of eligible roads and trails in any transportation plan when no new construction or upgrading is needed.
- (2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattleguards on/or adjacent to roads and trails identified in any land use or transportation plan, or eligible for incorporation in such plan.
- (3) Temporary closure of roads and trails.
- (4) Placement of recreational, special designation, or information signs, visitor registers, kiosks, and portable sanitation devices.

H. Recreation Management

Issuance of Special Recreation Permits for day use or overnight use up to 14 consecutive nights; that impacts no more than 3 staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan. This CX cannot be used for commercial boating permits along Wild and Scenic Rivers. This CX cannot be used for the establishment or issuance of Special Recreation Permits for “Special Area” management (43 CFR 2932.5).

I. Emergency Stabilization

Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition as a result of the event. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads, trails, fences, and minor facilities; construction of protection fences; planting, seeding, and mulching; and removal of hazard trees, rocks, soil, and other mobile debris from, on, or along roads, trails, campgrounds, and watercourses. These activities:

- (1) Shall be completed within one year following the event;
- (2) Shall not include the use of herbicides or pesticides;
- (3) Shall not include the construction of new roads or other new permanent infrastructure;
- (4) Shall not exceed 4,200 acres; and
- (5) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
- (6) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract

J. Other

- (1) Maintaining land use plans in accordance with 43 CFR 1610.5-4.
- (2) Acquisition of existing water developments (e.g., wells and springs) on public land.
- (3) Conducting preliminary hazardous materials assessments and site investigations, site characterization studies and environmental monitoring. Included are siting, construction, installation and/or operation of small monitoring devices such as wells, particulate dust counters and automatic air or water samples.
- (4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.
- (5) Reserved.
- (6) A single trip in a one month period for data collection or observation sites.
- (7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.
- (8) Installation of minor devices to protect human life (e.g., grates across mines).
- (9) Construction of small protective enclosures, including those to protect reservoirs and springs and those to protect small study areas.
- (10) Removal of structures and materials of no historical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.
- (11) Actions where the BLM has concurrence or co-approval with another DOI agency and the action is categorically excluded for that DOI agency.
- (12) Rendering formal classification of lands as to their mineral character, waterpower, and water storage values.

Energy Policy Act of 2005 Section 390 Categorical Exclusions

(Effective Date 8/08/05)

The law prescribes that for five categories of oil and gas operations, applicability of the Section 390 categorical exclusions is presumed, but subject to rebuttal. The five categories are:

- (1) Individual surface disturbances of less than five (5) acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.
- (2) Drilling an oil and gas location or well pad at a site at which drilling has occurred within five (5) years prior to the date of spudding the well.
- (3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed drilling as a reasonably foreseeable activity, so long as such plan or document was approved within five (5) years prior to the date of spudding the well.
- (4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within five (5) years prior to the date of placement of the pipeline.
- (5) Maintenance of a minor activity, other than any construction or major renovation of a building or facility.

The CXs established by Section 390 of the Energy Policy Act of 2005 are **not subject to review for extraordinary circumstances** because they are established by statute and are not under the CEQ or agency procedures pursuant to 40 CFR 1507.3 and 1508.4. Refer to H-1790-1 Section 4.1(page 17) and Appendix 2 for further explanation of the application of Section 390 CXs.

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APPENDIX 2

TELEPHONE CALL RECORD

Date:

Time:

Recorder's Name:

Called/spoke with:

Topic Subject:

Summary of Conversation, Comments, and Conclusions:

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APPENDIX 3

MEETING RECORD

Date:

Time:

Recorder's Name:

Attendees:

Purpose of the Meeting:

Summary of Meeting and Conclusions:

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APPENDIX 4
STREAMLINED THIRD-PARTY CONTRACTING PROCESS
AND EXAMPLE MOU

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

____Office
P.O. Box ____
____, UT ____ Zip
<http://www.blm.gov>



IN REPLY PLEASE REFER TO:
UT-

CERTIFIED MAIL XXXXXXXXXXXXXXXXXXXX
RETURN RECEIPT REQUESTED

____, President
____, Inc.
100 South 100 East
Small Town, Utah 84501

Subject: Current Project NEPA - EIS Process

Dear _____:

BLM has reviewed the Current Project, which you submitted on ____ (date); and is now ready to begin the process of preparing the National Environmental Policy Act (NEPA) analysis for the Project. At this time, we anticipate completing the NEPA analysis in ____ date. In order to meet that schedule, we propose to start the NEPA process in ____ date.

BLM is planning to prepare an environmental assessment (EA) [or environmental impact statement (EIS)] to analyze the impacts of the proposed project. We understand that____, Inc. is prepared to hire a third-party consultant to help in preparation of the EA [EIS] document. We are asking you to submit to us, in order of preference, three third-party consultants you feel are qualified to prepare an EA [EIS] analyzing the impacts of the proposed project. After we receive your list of contractors, we will select a contractor to prepare the document. Prior to selection of the contractor, a memorandum of understanding (MOU) detailing the responsibilities of____, Inc. and BLM will need to be signed by both parties. As you know, a draft MOU has been reviewed and is nearing final form.

If you have any questions about the attachment, the contractor selection process or the NEPA process, please contact ____project manager at the ____ Field Office, ____ (phone, e-mail address etc). Thank you for your cooperation.

Sincerely,
Field Manager

Attachment

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<Company, Inc Letterhead>
_____, President
_____, Inc.
100 South 100 East
Small Town, Utah 84501

Date:_____

Bureau of Land Management
____ Office
ATTN: Field Office Manager
P.O. Box ____
_____, UT _____ Zip

Subject: Current Project NEPA - EIS Process

Dear BLM Field Office Manager,

_____, Inc. is pleased to recommend the following environmental consultants to serve as the third party consultant to the Bureau of Land Management (BLM) regarding the Environmental Impact Statement (EIS) for the _____Project(case file number:_____), in order of preference:

1. Name, Address, Contact Information
2. Name, Address, Contact Information
3. Name, Address, Contact Information

Information regarding the qualifications of these firms is enclosed.

Please let me know if you need further information regarding these third party consultants.
Thank you for your assistance in this matter.

Name

Title

Enclosures

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

____Office
P.O. Box ____
____, UT ____ Zip
<http://www.blm.gov>



IN REPLY PLEASE REFER TO:
UTU

CERTIFIED MAIL XXXXXXXXXXXXXXXXXXXX
RETURN RECEIPT REQUESTED

____, President
____, Inc.
100 South 100 East
Small Town, Utah 84501

Subject: The Current Project, NEPA - EIS Process

Dear _____:

We received your response to our request to identify and to provide additional information about three third-party consultants qualified to prepare an environmental impact statement (EIS) analyzing the impacts of issuing a permit for the Current Project. After evaluating the requested information about the third-party contractors included on your list, BLM is selecting ____Environmental Consultants located in several offices (including Salt Lake City, Utah), to prepare the EIS for the Project.

Please advise ____Environmental Consultants that they must sign a "No Conflict of Interest" or "Disclosure Statement" stating that they do not have any interest, financial or otherwise, in the outcome of the project prior to awarding the contract. A copy of the signed statement must be provided to the BLM.

Enclosed are two copies of a Memorandum of Understanding (MOU) for the preparation of the EIS. Attached to the MOU is a Preparation Plan, which describes the content of the EIS. The Preparation Plan includes a draft schedule for preparation of the EIS and a summary of the data that is needed to complete the EIS, in accordance with the Data Adequacy Standards for the _____ BLM. With a few exceptions for necessary multiyear data collection requirements, the data collection needs to be completed this year in order to meet the timeframes included in the draft schedule. Also enclosed for your information is a copy of BLM Instruction Memorandum No. 2006-011, which provides guidance regarding BLM NEPA third party contracting procedures.

You have previously reviewed a draft MOU document; however, some revisions have been made to the enclosed MOU in accordance with recent BLM guidance. If you have any comments about any of the revisions to the MOU, please return the MOU with your comments included. If you have no changes to the MOU or Preparation Plan, please have both copies of the MOU signed by an authorized officer of ____, Inc. and return both signed copies of the MOU to Project Manager at the BLM ____Field Office. One original signed copy of the MOU and attached Preparation Plan will be returned to you after it is signed by the BLM Authorized Officer.

We anticipate meeting with you and the selected contractor in the near future to discuss the preparation of the EIS. In the meantime, if you have any questions about the contractor selection, the MOU, or the Preparation Plan, please contact Project Manager at _____ (phone) or ____@blm.gov (email).

Sincerely,

Field Manager

Enclosures

cc w/o enclosures:



United States Department of the Interior

OFFICE OF THE SOLICITOR

SUITE 6201, FEDERAL BUILDING
125 SOUTH STATE STREET
SALT LAKE CITY, UTAH 84138

August 16, 2006

Memorandum

To: James F. Kohler, Chief, Solid Minerals Branch, Utah State Office, Bureau of Land Management

From: Grant L. Vaughn, Attorney-Adviser, Intermountain Regional Office

Subject: Review of Process for NEPA Third Party Contracting

This is in response to the request received by telephone facsimile on August 9, 2006, for our review of a process used by the Wyoming BLM for third party contracting for a NEPA document. We have reviewed the fax dated August 2, 2006 from Nancy Doelger to Jeff McKenzie and we are of the opinion that the process is consistent with the regulations at 40 CFR § 1506 and is legally sufficient.

Please call me at (801) 524-5677 ex. 223 if you have any questions about this matter.

BLM - UT - 950
2006 AUG 16 AM 9:35

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**MEMORANDUM OF UNDERSTANDING BETWEEN THE
BUREAU OF LAND MANAGEMENT VERNAL FIELD OFFICE
AND
ENCANA OIL & GAS (USA), INC. FOR THE
PREPARATION OF AN ENVIRONMENTAL ASSESSMENT**

I. INTRODUCTION AND PURPOSE

The Bureau of Land Management, Vernal Field Office (BLM) has determined that an environmental assessment (EA) pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. Section 4321, et seq.) (NEPA) must be prepared involving a proposal for a field development by EnCana Oil & Gas (USA), Inc., (hereinafter referred to as the “Company”) in the North Chapita Field area located in Uintah County, Utah.

The EA must comply with all provisions of NEPA, including the Council on Environmental Quality (CEQ) regulations, 40 CFR Part 1500-1508; Department of Interior requirements (DM 516); the BLM NEPA Handbook (H-1790-1); the Endangered Species Act (16 U.S.C. Section 1531, et seq.) (ESA) and its implementing regulations at 50 CFR 402; and the National Historic Preservation Act (16 U.S.C. Section 470, et seq.) (NHPA) and its implementing regulations at 43 CFR Part 800.

The Company has decided to prepare the EA for their proposed project. BLM shall assume complete final control over the scope, content, and the determination of adequacy of the document.

It is the purpose of this Memorandum of Understanding (MOU) to establish an agreement between the Company and the BLM regarding the procedures to be followed and the conditions to be adhered to in preparation of the EA on the Company’s project.

It is understood that at any time during the preparation and completion of the EA, if the analysis of potential impacts of the project so warrants, BLM may determine to upgrade the document to an Environmental Impact Statement (EIS), subject to a new MOU.

II. GENERAL PROVISIONS

1. The company will provide the supporting expertise, staffing, and technical capabilities required for the EA preparation. The company will also be responsible for identifying and complying with Federal, state, and local laws, regulations, and other authorizations that are applicable to project.
2. The BLM will be responsible for completion of Section 7 consultation with the U.S. Fish and Wildlife Service in compliance with the ESA. Additionally, BLM will complete any necessary consultation with the State Historic Preservation Office for cultural and historic properties in compliance with the NHPA.
3. The company will be responsible for completing cultural and historic clearances associated with the project.
4. The company may retain a contractor for preparation of all or a portion of the EA. The EA contractor shall not have any financial or economic interest in the planning, design, or operation of the project.

5. BLM shall be the oversight, quality control and guidance entity in the joint effort to prepare the EA and will ultimately be responsible for assuring compliance with the requirements of NEPA and other applicable laws. The EA contractor, in consultation and coordination with BLM, shall make appropriate changes to the EA following BLM's receipt and review of public comments on the draft EA.
6. Until such time as BLM accepts the EA, the company or contractor shall not provide copies of the document to other interested parties or the general public unless requested by BLM.
7. Both the company and BLM shall:
 - a. Actively participate in all substantial phases of preparation of the EA;
 - b. Establish a mutually acceptable time schedule for the EA process that identifies the substantial phases of the preparation of the EA; and
 - c. Establish a mutually acceptable time schedule for the review and revising, as appropriate, of the EA as it is being prepared.
8. In all instances involving any questions as to the content or relevance of any material (including all data, analyses, and conclusions) in the EA, BLM shall make the final determination on inclusion or deletion of the material.
9. All costs incurred by the company in the preparation of the EA shall be the sole responsibility of the company. The company agrees to hold harmless and indemnify BLM with respect to any and all claims, demands, cause(s) of action, and the like arising from the performance of the company or any subcontractor of the company; any services; or, purchases of materials utilized by the company in the preparation of the EA.

III. PROCEDURES

1. BLM will require the preparation of the EA to be consistent and in compliance with current approved BLM EA guidelines and the Council on Environmental Quality's NEPA regulations. The preparation procedures may be modified by BLM only in the event that action or policy change occurs that affect project scope, or as the result of the public participation process.
2. The company will have primary responsibility for writing or rewriting of all sections, parts, appendices, or chapters including revisions resulting from public comment on the draft EA and for establishing a schedule for completion of portions of the EA consistent with the overall time schedule established pursuant to Section II.7 herein.

3. The preparation of EA shall be open for public involvement and the company shall prepare a draft EA for review and public comment for a designated period following completion. BLM will take the lead in establishing the length of any comment or notification period. The company will assume the responsibility for printing, mailing and distribution of the draft EA for public review and comment. BLM will provide a mailing list to the company.
4. The company will provide BLM with opportunities to review, comment, and make changes to the EA within the established time schedule, and BLM will provide comments within the timeframes established in the schedule. The company shall incorporate these comments and changes by BLM into the relevant section, parts, or chapters of the EA both in preparation for and following public review. The EA shall be released to other Federal agencies as well as state and local agencies for review and comment. The timing and procedures for such release will be specified pursuant to Section II.7.c herein.
5. Joint meetings between the company and BLM may be necessary and will be defined in the time schedule or scheduled when BLM deems necessary.
6. The company shall be responsible for incorporating in the EA all changes required by the BLM prior to BLM acceptance of the final EA. BLM will be responsible for organizing and conducting any necessary public meetings after BLM acceptance of the EA document.

IV. TERMINATION

1. Each party to this MOU may terminate this MOU after not less than 30 days prior notice in writing to the other party. During the intervening 30 days, the parties agree to actively attempt to resolve any outstanding disputes or disagreements.
2. In the event this MOU is terminated, but the project is not withdrawn, BLM will evaluate its capabilities to complete and schedule preparation of the appropriate level of NEPA documentation consistent with personnel and budgetary limitations.
3. In the event this MOU is terminated and the Company withdraws its proposal for the North Chapita Field development, the BLM shall be under no obligation to initiate preparation of an EA for the project or to approve individual APD's within the field prior to compliance with NEPA and all other applicable Federal laws and regulations.

V. APPROVAL

1. The company recognizes the responsibility of BLM to ensure the preparation of an environmental document in compliance with NEPA and to appropriately define the issues and analyze potential impacts; to review and require modification of the document as may be necessary; and, to approve the final product. However, in executing this MOU, the company reserves the right to contest the decision record of the EA, in any administrative or judicial proceedings, thereof or any other federal or state requirement relating to the project identified in Section I herein.

For the Bureau of Land Management

Date: _____

Signature: _____

Title: _____

For the Company

Date: _____

Signature: _____

Title: _____

APPENDIX 5

REFERENCE WORKSHEET

Your Name

Date

Write Reference as it appears in text of EA

Chapter and Section where located in
text of EA

Type of publication: (Book, Publication, Government Publication, Telephone*,
Correspondence*, Thesis, Paper, Newspaper, Technical Report, etc.)

Authors:

Date of Publications:

Title:

Publisher (if published, sponsoring agency):

Location of publisher:

Publication (Periodical):

Edition, Volume, Number:

Page numbers or number of pages:

Contractor (if applicable):

Where document is located:

* When referencing a telephone call in text, use the called person's name, not his agency whenever possible. The same name should appear on the "Authors" line above. Conversely, when referencing a letter in text, always use the company's or agency's name. The company's name should also be written as the "Author" above.

IN ALL CASES, THE AUTHOR REFERENCED IN TEXT MUST BE THE SAME AS THE
AUTHOR REFERENCED ON THIS WORKSHEET

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APPENDIX 6
**HAZARDOUS FUELS REDUCTION AND POST-FIRE
REHABILITATION TEMPLATE**

**FROM BLM WASHINGTON OFFICE
INSTRUCTION MEMORANDUM WO-2003-221**

**Template for Use in Preparing a Decision Memorandum to
Support Application of Departmental Categorical Exclusions (k) and (l)**

=====

Decision Memorandum on Action and for Application of:

Categorical Exclusions 43 CFR 46.210 (k) [or (l) or both]

Project Name

US Department of the Interior

Bureau Name

Bureau Field Station (State Office, Regional Office, etc.)

County, State

Purpose and Need for the Action

[Provide a description of the purpose and need and provide any pertinent facts such as: applicable legal land description, statutory citations, and other agency involvements.]

Plan Conformance

[State that the Proposed Action is consistent with any land and resource management plans as required by appropriate Federal, State, or local statutes having a bearing on the decision.]
[State that the Proposed Action was designed in conformance with all bureau standards and incorporates appropriate guidelines for specific required and desired conditions relevant to project activities.] [insert findings for other applicable laws.]

Compliance with the National Environmental Policy Act

[State that the Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 43 CFR 46.210 (k) [or (l) or both] [insert reasons.]

[State that the application of this categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects which may significantly affect the environment.]

[Clearly state that none of the extraordinary circumstances apply. If any apply, then the categorical exclusions cannot be utilized.] [State that these extraordinary circumstances are contained in 43 CFR 46.215.]

I considered [insert any pertinent situations that were brought up during the design of the activities and explain why there is no potential for significant effects].

Persons and Agencies Consulted

[Explain how the public was made aware of this proposed activity. Describe people and agencies consulted regarding the development of the action and steps taken based on this consultation.]

Decision and Rationale on Action

I have decided to implement [insert description of actions, including mitigation measures and reference any maps and drawings]. These actions meet the need for action. In addition, I have reviewed the plan conformance statement and have determined that the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required.

Implementation Date

This project will be implemented on or after [insert implementation date and identify any conditions related to implementation].

[Insert deciding official's name]
[Insert deciding official's title]

Date

Administrative Review or Appeal Opportunities

[State whether the decision is or is not subject to administrative appeal. If it is subject to appeal, provide the citation of the appeal rules and provide appeal information.]

Contact Person

For additional information concerning this decision, contact [Insert contact name, title, Office Name, Mailing Address, and phone number].

APPENDIX 7

ENERGY POLICY ACT OF 2005 SECTION 390 CX REVIEW AND DOCUMENTATION FORM

UNITED STATES DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
_____FIELD OFFICE

CATEGORICAL EXCLUSION REVIEW AND APPROVAL For Activities Associated with Oil and Gas Development Under Section 390 of the Energy Policy Act of 2005

NOTE: Follow the italicized instructions then delete this and all italicized instructions. To delete the text boxes, place the cursor in the text box, click the left mouse button, move the cursor to near the upper center line circle of the box; when the crossing arrows appear click the left mouse button to highlight the box and delete the box by pressing delete or clicking on edit, then cut. Details on application of Section 390 CXs is provided in H-1790-1 Section 4.1 and Appendix 2.

Project Name:

NEPA Number:

Lead Preparer:

Project or Serial Number (if applicable):

Project Description:

Provide a description of the proposed activity including any pertinent facts such as type and size of activity, timing of the action, number of acres to be disturbed etc.

Project Location:

Describe the regional setting and site-specific location. Provide a Map and refer to the map in this section

Plan Conformance

Specify results of Land Use Plan conformance review. Does the plan specifically provide for the action or, if not, is the action consistent with the terms, conditions, and decisions of the approved plan? The following information must be provided:

- Land Use Plan(s) name and date*
- Conformance review results, identifying and stating specific decision*
- If the plan does not specifically mention the action, explain how the action is consistent with plan objectives, terms and conditions)*

Energy Policy Act of 2005 Section 390 Categorical Exclusion Review

The action described above generally does not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS), as it has been found to not individually or cumulatively have a significant effect on the human environment. The applicable Categorical Exclusion reference in Section 390 of the Energy Policy Act of 2005 is exclusion number (b)() which is

Enter appropriate CX number from (b)(1) to (b)(5) and the text of the CX as follows:

- (1) Individual surface disturbances of less than five (5) acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.*
- (2) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously within five (5) years prior to the date of spudding the well.*
- (3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within five (5) years prior to the date of spudding the well.*
- (4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within five (5) years prior to the date of placement of the pipeline.*
- (5) Maintenance of a minor activity, other than any construction or major renovation or a building or facility.*

Insert short summary stating the reason(s) for this determination:

For category 1, *identify which NEPA document(s) include the proposed activity. State this (these) document(s) has (have) been reviewed and has (have) been determined to consider potential environmental effects associated with the proposed activity at a site specific level. Identify the present total disturbance on the lease and the total disturbance including the approved activity. Specify that total disturbance is within the 150 acres allowed by the category.*

For category 2, *identify the date(s) when drilling occurred on the location or well pad site, who conducted the drilling and the file number where the approval for the previous drilling is contained.*

For category 3, *identify the name and date of approval of the NEPA document which identifies the proposed activity as reasonably foreseeable.*

For category 4, *identify the corridor and the name and date of approval of the NEPA document approving the corridor where the proposed pipeline will be placed.*

For category 5, *explain why the maintenance proposal is considered minor.*

Categorical Exclusion Review Record

NOTE: *The review is done to **identify appropriate mitigation** to be applied to the proposed activity. **Do not apply extraordinary circumstances** as the Energy Policy Act of 2005 CXs are not subject to extraordinary circumstances. Each item of the review record should be completed by the assigned resource specialist. The Team Leader, NEPA Coordinator or Authorized Officer may sign the review record when they are acting as a specialist.*

Resource	Assigned Specialist Signature	Date
Air Quality		
Areas of Critical Environmental Concern		
Cultural Resources		
Environmental Justice		
Farm Lands (prime or unique)		
Floodplains		
Invasive Species/Noxious Weeds		
Migratory Birds		
Native American Religious Concerns		
Threatened, Endangered, or Candidate Species		
Wastes (hazardous or solid)		
Water Resources/Quality (drinking or ground)		
Wetlands / Riparian Zones		
Wild and Scenic Rivers		
Wilderness		
Other:		

Environmental Coordinator: _____ Date: _____

Decision and Rationale

I have decided to implement *[insert description of action(s)]* with the stipulations and conditions of approval identified in Attachment 1. *[If Attachment 1 is not used, refer to any stipulations or conditions of approval (COAs), map and drawings, etc., pertinent to decision]* The stipulations and COAs are required by this decision and variance from these stipulations and COAs during project implementation may require further NEPA review. In addition, I have reviewed the plan conformance statement and have determined that the proposed activity is in conformance with the applicable land use plan(s).

Appropriate consultation with *[the U.S. Fish and Wildlife Service (FWS), State Historic Preservation Office (SHPO) Native American Tribes, etc.]* has been conducted and the proposed activity meets the requirements of other Federal, State and local laws.

Further, I have reviewed the proposal to ensure the appropriate exclusion category as described in Section 390 of the Energy Policy Act of 2005 has been correctly applied. It is my determination that no further environmental analysis is required.

Implementation Date

(NOTE: The implementation date heading is required only for categories 2, 3, and 4)

This project will be implemented on or after *[insert implementation date and identify any conditions related to implementation.]*.

If the decision is based on categories 2, 3, or 4, provide a date by which the activity must be implemented or additional NEPA analysis will be required.

e.g. For categories 2&3:

"If the well has not been spudded by (the date the CX is no longer applicable, (i.e. for category 2, 5 years between the previous well completion and spudding of the well; and for category 3, 5 years between date plan or document was approved and date of spudding the well) this APD will expire and the operator is to cease all operations related to preparing to drill the well."

e.g. For category 4:

"If the operator does not begin placement of the pipeline on or before ____, (date is calculated as a maximum of 5 years between the approval of the corridor and beginning of placement of the pipeline) this authorization will be suspended until the BLM completes NEPA compliance for the proposed right-of-way and issues a decision.

Field Office Manager

Date

Administrative Review (Protest or Appeal) Opportunities

State whether the approval of the activity is or is not subject to administrative protest and/or appeal. If it is subject to protest or appeal, provide the citation of the rules and provide filing information. Example appeals language is provided on the Long-Format FONSI/DR Template in Chapter 3 of this Guidebook

ATTACHMENT 1 – STIPULATIONS / CONDITIONS OF APPROVAL

ATTACHMENT 2 – LEASE MAP WITH OIL AND GAS ACTIVITY

Note: Follow IM-WO-2005-247 ("National Environmental Policy Act (NEPA) Compliance for Oil, Gas, and Geothermal Development") for guidance on use of the "Section 390 Categorical Exclusion Tracking Log."

APPENDIX 8
PROTEST AND APPEAL LANGUAGE
(Reserved)

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Bureau of Land Management
Utah State Office